

**EXHIBIT 18**  
**Excerpts from**  
**Kasey Kirkegard**  
**Deposition, Vol.**  
**II, 2/6/19**

Detective Kasey Kirkegard ~ February 6, 2019  
\* \* \* Videotaped Deposition \* \* \*

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3

4

5

6 TRINITA FARMER, individually, )

7 Plaintiff, )

8 vs. )

) Case No.

) 2:18-cv-00860-GMN-VCF

9 LAS VEGAS METROPOLITAN POLICE )

DEPARTMENT, a political )

10 subdivision of the State of )

Nevada; KENNETH LOPERA, )

11 individually; TRAVIS CRUMRINE, )

individually; MICHAEL TRAN, )

12 individually; MICHAEL FLORES, )

individually, )

13 )

Defendants. )

14 )

15

16

17 VIDEOTAPED DEPOSITION OF DETECTIVE KASEY KIRKEGARD

18 Taken on Wednesday, February 6, 2019

19 At 10:13 a.m.

20 Held at Lagomarsino Law

21 3005 West Horizon Ridge Parkway, Suite 241

22 Henderson, Nevada 89052

23

24

25 Reported By: Gale Salerno, RMR, CCR No. 542

**CONDENSED  
TRANSCRIPT**

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

6 (Pages 18 to 21)

Page 18	Page 20
<p>1 A. Yeah. The -- excuse me -- the TDY up there 2 was 90 days. 3 Q. And then you went back to Bolden? 4 A. Yes, sir. 5 Q. How long were you there? 6 A. Until I got pulled up to Office of Internal 7 Oversight in 2014. 8 Q. Did you apply for that position in the 9 Office of Internal Oversight? 10 A. Yes. How it came about was we were putting 11 together a class for the whole department. It was 12 part of the recommendations from DOJ and the CNA 13 report. With that, because I had -- one of my old 14 sergeants was up there, she asked for me to come up 15 and help with this class, which I did. And after 16 that, they asked if I could come up and continue the 17 same work that I was doing with the CNA process. 18 Q. Okay. 19 A. So I put an informal letter of interest in. 20 Q. Did somebody approach you first or did you 21 approach somebody first? 22 A. I actually had approached and then went to 23 inquire what it was all about. 24 Q. Who did you approach? 25 A. I was approached by two officers I used to</p>	<p>1 a look at our department to change procedures, 2 policies and training. 3 Q. And then after they looked at the policies, 4 procedures and training, a report was issued; 5 correct? 6 A. Yes. There was several reports. There was 7 a six-month report, a yearly report and then after 8 that I believe every five years we do a public report 9 that shows what our policies and procedures are. 10 Q. So just for information-gathering purposes, 11 you turn in the initial report. And then the report 12 makes some recommendations and some findings. Six 13 months later an evaluation is done to see what the 14 progress is. And then after five years from that six 15 months, another report is issued by Metro; is that 16 correct? 17 A. Yeah. We do -- I don't know -- the 18 five-year report, I -- I don't author it. I don't 19 know much about it, I'll be honest with you, but I 20 know we had the six-month report with the CNA process 21 and the year report for the CNA process, and I was 22 heavily involved in both those two reports. 23 Q. Have you ever actually seen the five-year 24 report that was done? 25 A. It's public information, I believe, on our</p>
Page 19	Page 21
<p>1 work with at Bolden Area Command about this class. 2 Q. Who were they? 3 A. It was Patrick Bert and Patrick Hughes. 4 Q. And which class? 5 A. It was a class called fair and impartial 6 policing and procedural justice. 7 Q. Who taught that class or those classes? 8 A. I did, along with a pool of instructors. 9 We had about 30 instructors. And I'm not going to be 10 able to name them all. 11 Q. You referred to DOJ or CNA report. 12 A. Yes, sir. 13 Q. Can you expand on that for the record what 14 that is? 15 A. So in 2010, we had our highest number of 16 officer-involved shootings, which was 25 for the 17 year. We knew the DOJ was coming down on our 18 department and so Sheriff Gillespie at the time went 19 to the DOJ and said, "Look, I know you guys are 20 looking at our department. What is it that I can do 21 to help reduce the number of officer-involved 22 shootings?" 23 So they came up with this collaborative 24 reform called the CNA process. And together they 25 sent down some members of the DOJ that came and took</p>	<p>1 public website. 2 Q. Do you know if it was issued? 3 A. I do not. 4 Q. Do you know who was supposed to issue it? 5 A. I do not know. 6 Q. How long were you with the Office of 7 Internal Oversight? 8 A. I was with them for approximately a year 9 and a half to two years. 10 Q. And what were all your titles with that 11 office? 12 A. Titles or? 13 Q. I guess roles. 14 A. Roles? So we had a lot of roles. We were 15 kind of -- with the CNA report, we had to follow up 16 on the recommendations, make sure those 17 recommendations were being done. If not, we would 18 have to type up a memo that would go up our chain of 19 command as to why it wasn't feasible for our 20 department to do it, and there was two 21 recommendations that we did not do. 22 At the completion of the CNA report we 23 continued to oversee these policies and procedures 24 and training to make sure they are still being 25 followed properly.</p>

All-American Court Reporters (702) 240-4393

www.aacrlv.com

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

7 (Pages 22 to 25)

Page 22	Page 24
<p>1 We also worked with our CIRT team and our 2 FIT team. Any recommendations that came out of the 3 tactical review board after a certain investigation, 4 we had to ensure that those policies, training, 5 procedures were all implemented as recommendations 6 from the chairperson. 7 Any training issues that we saw on the 8 onset of an OIS, or officer-involved shooting, or 9 critical incident, we were responsible for pushing 10 the training in a memo form. We pushed out any 11 search and seizure recommendations, any use of forces 12 that we saw that we could always get better on our 13 training. 14 We read all use of force reports. We did a 15 lot of training within the department, getting fair 16 and impartial policing, procedural justice. Make 17 sure the whole department was trained up on that 18 including our corrections officers and all of our 19 civilians, including the academy, so any new officers 20 that were hired. 21 And there's a lot more. 22 Q. If I wanted to request a document or 23 information from the department about what your roles 24 were during that time, what would I ask for? 25 A. I believe we have like an internal manual.</p>	<p>1 critical incidents with use of deadly force. So that 2 includes a low lethality shotgun within five yards; 3 PIT, which is the vehicle under the speeds of 4 40 miles an hour; any intentional discharge or 5 accidental; and then officer-involved shootings. 6 Q. Do you know what incident caused the 7 shotgun policy to be revised? 8 A. Which policy? Because it's changed a 9 couple of times. 10 Q. Well, do you remember the Stanley Gibson 11 case? 12 A. Yes. 13 Q. Did that case have anything to do with that 14 policy being changed? 15 A. I don't know. I wasn't up there at that 16 time. 17 Q. And I think you referenced the pin 18 maneuvers? 19 A. PIT, P-I-T. 20 Q. P-I-T, I apologize. How did the policy 21 change there? 22 A. I believe the speeds had changed from 45 to 23 40. And there was different times when you could use 24 it and couldn't use it, depending on the crime. 25 Q. Are there any types of use of force at all</p>
Page 23	Page 25
<p>1 Q. You had mentioned that the -- there were 2 two recommendations that you could not implement from 3 the CNA? 4 A. Uh-huh. 5 Q. Which were those? 6 A. The first of which was during 7 officer-involved shootings and we would take an 8 audio-recorded statement. They also wanted a 9 videotape, but we said we were not going to do that. 10 And another one had something to do with 11 body cameras, and I don't recall the specifics of it. 12 Q. Do you know why the decision was made not 13 to video? 14 A. I do not. 15 Q. I may have asked you this so I apologize. 16 Do you know who writes that five-year report? 17 A. It's going to fall under the Office of 18 Constitutional Policing. And I don't know who would 19 write it. I know when they did the one year, it was 20 kind of farmed out to someone from training would 21 write on there and search and seizure would write up 22 on their end and we would put it together. 23 But it also included any use of forces from 24 the different types of use of forces that officers 25 were involved in. Also did a quick of all of our</p>	<p>1 that have been banned by Metro, to your knowledge? 2 A. I don't want to say banned, but they've 3 been modified. 4 Q. And which ones have been modified? 5 A. Our low lethality shotgun was modified. 6 LVNR has changed. 7 Our use of force policy has changed, I 8 guess, in total. K-9, and that includes K-9 bites 9 have changed. And that's all I can think of right 10 now. 11 Q. Did the LVNR policy change after the Tashi 12 Farmer incident? 13 A. Yes. 14 Q. Do you know of any other changes that were 15 made to the LVNR policy prior to the Tashi Farmer 16 incident? 17 A. Yes. But I don't -- so we have a use of 18 force model that we abide by that's within policy, 19 and that has changed a number of times since I've 20 been with Metro. 21 Q. I understand that the use of force model 22 has changed for a variety of reasons. And so that 23 may have some application to the LVNR. But I'm 24 asking a little bit more of a specific question. 25 Do you know if the LVNR policy itself had</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

10 (Pages 34 to 37)

Page 34	Page 36
<p>1 prior to the Tashi Farmer case?</p> <p>2 A. Let's see. He was May of 2017?</p> <p>3 Q. Yes.</p> <p>4 A. Probably four -- between three and five, I</p> <p>5 want to say.</p> <p>6 Q. Okay. In the -- I'll say Farmer or Brown</p> <p>7 or use them interchangeably today, but what was your</p> <p>8 role in that case?</p> <p>9 A. For the Lopera case?</p> <p>10 Q. Yes.</p> <p>11 A. I was the CIRT case agent for that.</p> <p>12 Q. How many case agents were there for that?</p> <p>13 A. I was the main case agent. And then I had</p> <p>14 a partner who would help me write -- excuse me, not</p> <p>15 write, but help me with PowerPoint.</p> <p>16 Q. Who was your partner?</p> <p>17 A. Greg Watkins.</p> <p>18 Q. Prior to the Lopera case, how many times</p> <p>19 had you been the main case agent in a CIRT case?</p> <p>20 A. The three to four times -- three to five</p> <p>21 times that I previously told you.</p> <p>22 Q. Do you remember which officers those cases</p> <p>23 involved?</p> <p>24 A. Yes.</p> <p>25 Q. Who are they?</p>	<p>1 vehicle parked in the driveway. As -- as they came</p> <p>2 by the residence, their intention was to do a</p> <p>3 drive-by and get resources to the area.</p> <p>4 However, as they drove by, three people got</p> <p>5 out of the vehicle. They challenged the vehicle,</p> <p>6 challenged the people. They all were prone out and</p> <p>7 the father who was inside the residence came out with</p> <p>8 a gun to see what was going on.</p> <p>9 And with the gun in his hand, officers gave</p> <p>10 him verbal commands to drop the gun. He raised the</p> <p>11 gun in their direction and Officer McGill fired I</p> <p>12 believe four to five times, but I'm not 100 percent</p> <p>13 on that.</p> <p>14 Father goes back inside. There was small</p> <p>15 children so I had to end up calling 911 saying that</p> <p>16 their dad had just been shot. Two and two together,</p> <p>17 realized it was the police that were outside. They</p> <p>18 make entry, go in and find, I believe, the father was</p> <p>19 deceased.</p> <p>20 Q. Were the Officers McGill and Moore who did</p> <p>21 the drive-by, were they uniformed?</p> <p>22 A. Yes, they were.</p> <p>23 Q. And were they in a black-and-white vehicle?</p> <p>24 A. Yes, they were.</p> <p>25 Q. And was there any discipline that was</p>
Page 35	Page 37
<p>1 A. The first case I had was McGill and Moore.</p> <p>2 Q. McGill and Moore?</p> <p>3 A. Yes. Two different officers.</p> <p>4 Q. What were their first names?</p> <p>5 A. Solomon McGill and I believe it's Brian</p> <p>6 Moore, but I'm not 100 percent on that.</p> <p>7 Q. How about the next ones?</p> <p>8 A. Sergeant William Matchko.</p> <p>9 Pete Biesanszky.</p> <p>10 Q. Okay.</p> <p>11 A. I don't know -- Hatten. I don't know if he</p> <p>12 was before or after. And then Spiotto, I don't know</p> <p>13 if he was before or after. I think he was after.</p> <p>14 Q. What was Hatten's first name?</p> <p>15 A. Mark Hatten.</p> <p>16 Q. And then can you spell the name of the</p> <p>17 last -- last name of the person? Spiotto you said?</p> <p>18 A. Yes, Lance Spiotto.</p> <p>19 Q. Can you spell his last name?</p> <p>20 A. S-p-i-o-t-t-o.</p> <p>21 Q. What did the McGill and Moore case involve</p> <p>22 generally?</p> <p>23 A. They were doing a followup on a -- I</p> <p>24 believe it was a robbery that occurred down the</p> <p>25 street. And they drove by the residence and saw the</p>	<p>1 levied as a result of that incident?</p> <p>2 A. That I don't know. We don't handle</p> <p>3 discipline on the CIRT side.</p> <p>4 Q. Did you make any recommendations for</p> <p>5 discipline?</p> <p>6 A. We don't make recommendations for</p> <p>7 discipline at all. We have nothing to do with</p> <p>8 discipline.</p> <p>9 Q. You're just looking at policies and</p> <p>10 training?</p> <p>11 A. We're looking at the facts, yeah.</p> <p>12 Q. Did you ever hear if there was any</p> <p>13 discipline that arose out of that?</p> <p>14 A. We're not privy to that. And the reason</p> <p>15 being is they don't want us to have a biased opinion</p> <p>16 when it comes to recommendations.</p> <p>17 Q. In that CIRT process, is discipline usually</p> <p>18 levied first, or -- is it usually levied before the</p> <p>19 CIRT report is issued or after?</p> <p>20 A. After. Because it's the recommendations</p> <p>21 from the chairperson and the sheriff when they talk.</p> <p>22 Q. So does discipline come out of the Use of</p> <p>23 Force Board?</p> <p>24 A. So how it works is when we do the Use of</p> <p>25 Force Board, they roll right into our tactical</p>



## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

12 (Pages 42 to 45)

Page 42	Page 44
<p>1 And there was an overall question about the</p> <p>2 use of force. At that time Officer Hatten had</p> <p>3 articulated his use of force. And then -- but prior</p> <p>4 to his interview, there was some concern about his</p> <p>5 use of force.</p> <p>6 Q. Why?</p> <p>7 A. Because at the time that he fired, the</p> <p>8 subject was not armed with the handgun. Had not</p> <p>9 picked up the firearm.</p> <p>10 Q. Do you know if Mr. -- or Officer Hatten is</p> <p>11 still on the force today?</p> <p>12 A. Yes, he is.</p> <p>13 Q. And the last case was Spiotto?</p> <p>14 A. I believe that happened after Lopera.</p> <p>15 Q. Generally, what did that involve?</p> <p>16 A. Off-duty officer was at an animal shelter</p> <p>17 when a subject came in to rob -- came in to rob that</p> <p>18 front desk and he was armed with a handgun and</p> <p>19 Officer Spiotto stepped in.</p> <p>20 Q. And what did he do?</p> <p>21 A. He pulled out his personal firearm.</p> <p>22 Confronted the subject. They got into a wrestling</p> <p>23 match over the gun and the gun went off twice inside</p> <p>24 the animal shelter before the subject ran off and was</p> <p>25 taken into custody at a later date at a later</p>	<p>1 THE VIDEOGRAPHER: The time is</p> <p>2 approximately 11:14 a.m. We are back on the record.</p> <p>3 BY MR. LAGOMARSINO:</p> <p>4 Q. Okay. You understand you're still under</p> <p>5 oath?</p> <p>6 A. I'm sorry, what?</p> <p>7 Q. You're still under oath?</p> <p>8 A. Yes.</p> <p>9 Q. You're aware that there was an incident on</p> <p>10 May 14th of 2017 in which Tashi Farmer was killed?</p> <p>11 A. Yes.</p> <p>12 Q. And you were the case agent on that?</p> <p>13 A. Yes.</p> <p>14 Q. Did you interview witnesses as part of your</p> <p>15 role in that investigation?</p> <p>16 A. Yes, I did.</p> <p>17 Q. Which witnesses did you interview?</p> <p>18 A. We had Officer Tran, Flores, Officer Lif,</p> <p>19 Sergeant Crumrine.</p> <p>20 Q. Lopera?</p> <p>21 A. Yes. He would be considered involved in</p> <p>22 the CIRT world. Not necessarily a witness.</p> <p>23 Q. Okay.</p> <p>24 A. We had also Officer Amburgey and I believe</p> <p>25 Officer Kravetz.</p>
Page 43	Page 45
<p>1 location -- or a different location.</p> <p>2 Q. Were there any policy violations in that</p> <p>3 case?</p> <p>4 A. Yeah.</p> <p>5 Q. What were they?</p> <p>6 A. Detective Spiotto was under the influence</p> <p>7 of alcohol at the time.</p> <p>8 Q. Any others?</p> <p>9 A. CIRT had decided that based upon his</p> <p>10 intoxication level, that he should not have</p> <p>11 intervened. He should not have been armed with a</p> <p>12 firearm.</p> <p>13 Q. What was his intoxication level?</p> <p>14 A. At the time six hours later that we got his</p> <p>15 blood drawn, it was still at a .17.</p> <p>16 Q. Is Spiotto still on the force?</p> <p>17 A. No.</p> <p>18 MR. LAGOMARSINO: I usually go longer than</p> <p>19 an hour but I think we're at a good time to take a</p> <p>20 quick break.</p> <p>21 THE VIDEOGRAPHER: The time is</p> <p>22 approximately 11:02 a.m. We are going off the</p> <p>23 record.</p> <p>24 (A recess was taken from 11:02 a.m.</p> <p>25 to 11:14 a.m.)</p>	<p>1 Q. When did you start conducting interviews in</p> <p>2 that case?</p> <p>3 A. Officer Lopera was the first interview that</p> <p>4 we conducted, and I believe his was within 48 hours</p> <p>5 of the incident.</p> <p>6 Q. Where did that take place?</p> <p>7 A. In our CIRT conference room at</p> <p>8 headquarters.</p> <p>9 Q. Who was present?</p> <p>10 A. Myself, my partner Patrick Hughes. Kyle</p> <p>11 Ward, Sergeant Kyle Ward. Lieutenant Dan Bledsoe and</p> <p>12 then Officer Kenneth Lopera, and his representative</p> <p>13 from PPA, Bryan Yant.</p> <p>14 Q. Bryan Yant, Y-a-n-t?</p> <p>15 A. Yes.</p> <p>16 Q. Did Officer Lopera have any counsel there?</p> <p>17 Any attorneys?</p> <p>18 A. No.</p> <p>19 Q. Did Officer Lopera waive his Fifth</p> <p>20 Amendment right in that interview?</p> <p>21 A. He has to. He's under Garity. He would</p> <p>22 have to talk with us.</p> <p>23 Q. And just for the record, explain what</p> <p>24 Garity is.</p> <p>25 A. It's an admonishment we read our officers</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

13 (Pages 46 to 49)

<p style="text-align: right;">Page 46</p> <p>1 in an internal investigation that more or less reads</p> <p>2 that they have to cooperate with the investigation or</p> <p>3 they will face discipline.</p> <p>4 Q. How long did that interview take?</p> <p>5 A. I believe on record it was -- on tape,</p> <p>6 because it was tape recorded, I believe about four</p> <p>7 hours. But all in all I believe it was about six</p> <p>8 hours. We took a break with lunch.</p> <p>9 Q. Did you have any conversations with Officer</p> <p>10 Lopera about the incident off the record?</p> <p>11 A. No.</p> <p>12 Q. Did anybody have any conversations with him</p> <p>13 off the record?</p> <p>14 A. I don't know.</p> <p>15 Q. And why did you do an interview of Officer</p> <p>16 Lopera?</p> <p>17 A. Because he was an involved officer.</p> <p>18 Q. And maybe I asked you this, but</p> <p>19 approximately how long after the incident did the</p> <p>20 interview take place?</p> <p>21 A. We have within 48 hours by NRS 289.</p> <p>22 Q. Why is it important to interview within</p> <p>23 48 hours?</p> <p>24 A. Well, we have to abide by the NRS Chapter</p> <p>25 289, which is the rights of peace officers in</p>	<p style="text-align: right;">Page 48</p> <p>1 with the decedent, his reasons for foot pursuit. His</p> <p>2 perception of an attempt carjacking. The use -- the</p> <p>3 first use of the ECD, electronic control device.</p> <p>4 Q. Did you make a determination that he was</p> <p>5 being untruthful as to the remainder of the use of</p> <p>6 the electronic control device?</p> <p>7 A. It was not necessarily a truthfulness. It</p> <p>8 was just outside the policy, his use of the ECD.</p> <p>9 Q. And what about what he said caused you to</p> <p>10 believe that he was being untruthful about the head</p> <p>11 strikes?</p> <p>12 A. The fact that he doesn't remember the</p> <p>13 amount of strikes.</p> <p>14 Q. And what about the use of the LVNR causes</p> <p>15 you to believe that he was being untruthful?</p> <p>16 A. Parts of his interview he started out by</p> <p>17 saying he never meant to render the decedent</p> <p>18 unconscious. However, as the interview progressed,</p> <p>19 he later stated that the use of the LVNR is to</p> <p>20 incapacitate a subject.</p> <p>21 Q. As you sit here today, can you recall</p> <p>22 anything else about his interview that you perceived</p> <p>23 to be untruthful?</p> <p>24 A. Not without looking at it.</p> <p>25 Q. What is the difference between a</p>
<p style="text-align: right;">Page 47</p> <p>1 internal investigation.</p> <p>2 Q. During your interview of Officer Lopera,</p> <p>3 are you making credibility assessments?</p> <p>4 A. There's a fine line, I think, between</p> <p>5 credibility and truthfulness. We're asking questions</p> <p>6 about the incident and his perceptions of the</p> <p>7 incident. We go through all of our grand recon and</p> <p>8 our elements of deadly force.</p> <p>9 And with that we take what he says and go</p> <p>10 through what is determined to be truthful and not</p> <p>11 truthful.</p> <p>12 Q. And did you make any determinations as to</p> <p>13 what you believe was truthful or not truthful?</p> <p>14 A. Yes.</p> <p>15 Q. And what determinations did you make that</p> <p>16 he was truthful?</p> <p>17 A. One of the conclusions that we had in our</p> <p>18 report was that he was being untruthful when -- for</p> <p>19 the head strikes and the LVNR, or the use of the</p> <p>20 LVNR.</p> <p>21 Q. Which determinations did you make that he</p> <p>22 was being truthful?</p> <p>23 A. That he was being truthful?</p> <p>24 Q. Yeah.</p> <p>25 A. About the incident, his initial contact</p>	<p style="text-align: right;">Page 49</p> <p>1 credibility assessment and a truthfulness assessment?</p> <p>2 A. Well, with credibility we take the</p> <p>3 officer's perception and we can't necessarily take</p> <p>4 away an officer's perception to say I don't believe</p> <p>5 you because I see it differently. Whereas</p> <p>6 truthfulness if we can -- it's almost being caught in</p> <p>7 a lie or something that's factual that we can prove</p> <p>8 that did not happen or did happen.</p> <p>9 So credibility falls, for me falls more on</p> <p>10 the perception of things. I can't take away an</p> <p>11 officer's perception of what they saw.</p> <p>12 Q. In your CIRT investigations, do you ever</p> <p>13 call into question when an officer says they</p> <p>14 perceived?</p> <p>15 A. We take a -- we take a look at it. But</p> <p>16 we've never taken away an officer's perception.</p> <p>17 Q. In other words, if an officer says to you I</p> <p>18 perceived X, you always take that as true if they say</p> <p>19 that's what they perceived, correct?</p> <p>20 A. Yes.</p> <p>21 Q. So with respect to Officers Tran -- strike</p> <p>22 that.</p> <p>23 With respect to Officers Tran, Flores and</p> <p>24 Sergeant Crumrine at the time, you did not discount</p> <p>25 anything that they said in terms of if they said that</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

14 (Pages 50 to 53)

<p style="text-align: right;">Page 50</p> <p>1 they perceived it? That's a terrible question. Let</p> <p>2 me rephrase.</p> <p>3 If Officers Tran, Flores and Sergeant</p> <p>4 Crumrine stated that they perceived certain acts of</p> <p>5 the individuals involved, did you ever discount their</p> <p>6 credibility?</p> <p>7 A. No.</p> <p>8 Q. Is that just as a matter of policy?</p> <p>9 A. That is not necessarily written in policy.</p> <p>10 But we ask these officers these questions, again, to</p> <p>11 get their perception of what they saw, what they</p> <p>12 observed and why they reacted the way they did.</p> <p>13 Q. So it may not be a policy but it's a</p> <p>14 practice or a custom?</p> <p>15 A. Sure.</p> <p>16 Q. Is the investigation that you're conducting</p> <p>17 focused on whether an officer is being credible?</p> <p>18 A. No. It's based on the facts.</p> <p>19 Q. And a better way maybe to say it from my</p> <p>20 questioning standpoint is you're assuming everything</p> <p>21 the officer is saying is true if they're saying it's</p> <p>22 based on their perception?</p> <p>23 A. Correct.</p> <p>24 Q. Prior to investigating this incident, had</p> <p>25 you ever been trained on the LVNR?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. And that's a vague question.</p> <p>2 Did the officers that you interviewed that</p> <p>3 were involved in the incident know the LVNR policies</p> <p>4 offhand?</p> <p>5 A. I don't know.</p> <p>6 Q. Did you ask them?</p> <p>7 A. I believe we went through the LVNR policy</p> <p>8 with them.</p> <p>9 Q. And did you receive any indication that</p> <p>10 they didn't know it without looking at the policy?</p> <p>11 A. I don't recall. I don't think so.</p> <p>12 Q. Were you able to tell by looking at the</p> <p>13 videotape if the LVNR was properly applied?</p> <p>14 A. I don't know.</p> <p>15 Q. You don't know if you were able to tell?</p> <p>16 A. I wouldn't be able to -- I don't know if</p> <p>17 the placement of the LVNR was proper.</p> <p>18 Q. So as you sit here today, you don't know if</p> <p>19 it was proper?</p> <p>20 A. I don't know.</p> <p>21 Q. What policies did Lopera violate in this</p> <p>22 incident?</p> <p>23 A. The electronic -- the ECD, the electronic</p> <p>24 control device was a policy violation. And that</p> <p>25 being that after three times it's deemed ineffective.</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. Prior to investigating this incident, had</p> <p>3 you ever investigated another incident from an</p> <p>4 internal standpoint involving the use of the LVNR?</p> <p>5 A. No.</p> <p>6 Q. When you started investigating this</p> <p>7 incident -- strike that.</p> <p>8 After you started investigating this</p> <p>9 incident, did you have to brush up on your training</p> <p>10 on the LVNR?</p> <p>11 A. What do you mean by "brush up"?</p> <p>12 Q. Well, I think you were asked questions in</p> <p>13 the other deposition about whether -- when somebody</p> <p>14 is supposed to become unconscious and when you're</p> <p>15 supposed to release the hold in terms of time.</p> <p>16 Would you have known that when you were</p> <p>17 conducting this investigation?</p> <p>18 A. Yes. Because we would have the policies in</p> <p>19 front of us.</p> <p>20 Q. But if you didn't have the policy in front</p> <p>21 of you, would you have known that?</p> <p>22 A. Yes.</p> <p>23 Q. Did the other officers know those policies</p> <p>24 completely offhand when you interviewed them?</p> <p>25 A. My partner, Patrick Hughes, yes.</p>	<p style="text-align: right;">Page 53</p> <p>1 However, Officer Lopera from the download of his</p> <p>2 Taser had used it seven times, pulled the trigger</p> <p>3 seven times.</p> <p>4 Q. Okay.</p> <p>5 A. The head strikes, the threat assessment and</p> <p>6 the LVNR, which was a -- a truthfulness.</p> <p>7 Q. So was Lopera -- strike that.</p> <p>8 Did you find the policy violation against</p> <p>9 Lopera for the actual use of the LVNR or the lying</p> <p>10 about the LVNR?</p> <p>11 A. For -- I think it was -- it was a</p> <p>12 truthfulness --</p> <p>13 MR. McNUTT: Objection. Form.</p> <p>14 THE WITNESS: It was a truthfulness for the</p> <p>15 LVNR.</p> <p>16 BY MR. LAGOMARSINO:</p> <p>17 Q. Okay.</p> <p>18 A. About the use of the LVNR.</p> <p>19 Q. Okay. So standing alone, his use of the</p> <p>20 LVNR did not violate policy in your view; is that</p> <p>21 correct?</p> <p>22 A. I believe it had his threat perception</p> <p>23 about the application of the LVNR and then the</p> <p>24 truthfulness leading up to the LVNR is what the</p> <p>25 conclusion was based on, but I don't remember</p>



## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

15 (Pages 54 to 57)

Page 54	Page 56
<p>1 verbatim how I worded it in the report.</p> <p>2 Q. Okay. What report are you talking about?</p> <p>3 A. We, at the conclusion of our investigation,</p> <p>4 we put all our facts together in an AR, or admin</p> <p>5 report.</p> <p>6 Q. And where does that go?</p> <p>7 A. That is -- it goes to our people who sit on</p> <p>8 the board. And when we present the facts through a</p> <p>9 PowerPoint, they're able to read along in that report</p> <p>10 with our PowerPoint. If they have any questions or</p> <p>11 concerns, they can direct them at me. Or if they</p> <p>12 have questions for Officer Lopera or any of the</p> <p>13 involved officers or witness officers, they can</p> <p>14 answer them as well.</p> <p>15 Q. And as I understand your testimony, you</p> <p>16 find the policy violation for the necessity or the</p> <p>17 use of the LVNR, correct?</p> <p>18 A. Not necessarily the necessity. We look at</p> <p>19 the assessment of the use of force. And with that,</p> <p>20 because of the types of use of force that Officer</p> <p>21 Lopera used, we questioned him on those as to why he</p> <p>22 used those or why he decided to use those.</p> <p>23 Q. Did you find a policy violation in the</p> <p>24 actual application of the restraint/LVNR?</p> <p>25 A. Based on the perception on the threat</p>	<p>1 statement to us had stated that the decedent was</p> <p>2 fighting him. In review of --</p> <p>3 MR. McNUTT: Objection. Form. I will</p> <p>4 instruct the witness not to repeat anything that</p> <p>5 Officer Lopera told you during this process.</p> <p>6 MR. ANDERSON: Join. Anything that he told</p> <p>7 you.</p> <p>8 THE WITNESS: Okay.</p> <p>9 MR. LAGOMARSINO: What's the basis for</p> <p>10 that? Just so we have a record.</p> <p>11 MR. ANDERSON: We have a pending motion --</p> <p>12 you filed a motion to compel in these issues on his</p> <p>13 statement. So once that's decided, we will let the</p> <p>14 judge decide whether Lopera's statement is relevant</p> <p>15 or can be used in this case.</p> <p>16 MR. LAGOMARSINO: Okay.</p> <p>17 BY MR. LAGOMARSINO:</p> <p>18 Q. So was Tashi Farmer fighting back?</p> <p>19 A. From what we could see on the video</p> <p>20 surveillance and a little bit of Officer Lopera's</p> <p>21 body camera, it did not look to be what Officer</p> <p>22 Lopera had articulated to us.</p> <p>23 Q. What about the use of the head strikes was</p> <p>24 a violation of policy?</p> <p>25 A. It would have been excessive use of force</p>
Page 55	Page 57
<p>1 perception, yes.</p> <p>2 Q. And I think maybe I'm asking a different</p> <p>3 question than you're answering. And it's probably</p> <p>4 the question's -- probably the questioner's fault.</p> <p>5 Let's assume that the threat hypothetically</p> <p>6 justified the use of an LVNR. Okay?</p> <p>7 If he used the LVNR that was depicted on</p> <p>8 the tape, did you find any violation in the way he</p> <p>9 actually applied the LVNR?</p> <p>10 A. There was some question about the hand. I</p> <p>11 believe it was his right hand, where the hand</p> <p>12 placement of that was, because that was not what</p> <p>13 was trained with the use of the LVNR with our</p> <p>14 department.</p> <p>15 Q. And I understand there was a question about</p> <p>16 it. But was there a finding or conclusion made that</p> <p>17 he misapplied the LVNR?</p> <p>18 A. That was based and kind of rolled into the</p> <p>19 truthfulness conclusion.</p> <p>20 Q. The best way to probably get the exact</p> <p>21 conclusion would be to review the report, correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. What about the threat assessment was</p> <p>24 a violation of policy?</p> <p>25 A. The strikes -- Officer Lopera in his</p>	<p>1 based on the threat perception.</p> <p>2 MR. LAGOMARSINO: All right. I'll reserve</p> <p>3 the right to come back with the witness based on the</p> <p>4 court's ruling on anything with respect to what</p> <p>5 Officer Lopera described to her in the CIRT</p> <p>6 statement.</p> <p>7 MR. ANDERSON: Understood.</p> <p>8 BY MR. LAGOMARSINO:</p> <p>9 Q. Do you use LVNR and chokehold</p> <p>10 interchangeably?</p> <p>11 A. No.</p> <p>12 Q. I think you were asked in the other</p> <p>13 deposition whether -- a slightly different question.</p> <p>14 Let me rephrase.</p> <p>15 In the other deposition you were asked is</p> <p>16 an LVNR and a rear naked choke the same?</p> <p>17 A. I was asked that in the deposition?</p> <p>18 Q. Yeah.</p> <p>19 A. Is that your question, are they the same?</p> <p>20 Q. Yes.</p> <p>21 A. No.</p> <p>22 MR. ANDERSON: Okay, that got confusing.</p> <p>23 Was the question, were you asked that question in a</p> <p>24 prior deposition, or is there a difference between an</p> <p>25 LVNR and a chokehold?</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

16 (Pages 58 to 61)

Page 58

1 MR. LAGOMARSINO: Okay. I'll refine the  
2 question.  
3 BY MR. LAGOMARSINO:  
4 Q. Rather than go off my notes, what I'll do  
5 is I'll bring the transcript back for the next  
6 session.  
7 Is the rear naked choke the same as the  
8 LVNR?  
9 A. No.  
10 Q. In the rear naked choke, the encircling arm  
11 is used the same way as you would have in an LVNR,  
12 correct?  
13 A. I'm sorry, could you say that again?  
14 Q. Sure. When you compare the rear naked  
15 choke and the LVNR, the encircling arm is the same?  
16 A. I believe so, yes.  
17 Q. And it's in the same position, correct?  
18 A. Yes.  
19 Q. What's the difference, as you sit here  
20 today, between the LVNR and a rear naked choke?  
21 A. I believe it's the hand placement of the  
22 non-encircling arm.  
23 Q. And in the LVNR, the hand placement is  
24 permitted on the back of the head, correct?  
25 A. I'm sorry, say that one more time.

Page 60

1 remember.  
2 Q. Okay. Do you know if that video was shown  
3 to all the officers in Metro?  
4 A. I don't know.  
5 Q. Does Metro train you in how long it takes  
6 to render somebody unconscious when you impose the  
7 LVNR?  
8 A. Yes, they do.  
9 Q. And how long is that?  
10 A. I believe it's four to seven seconds.  
11 Q. Four to seven seconds?  
12 A. I believe so.  
13 Q. Are you sure?  
14 A. No.  
15 Q. Would you have to see the policy?  
16 A. I would have to see the lesson plan, yes,  
17 sir.  
18 Q. To your knowledge, was Officer Lopera ever  
19 interviewed by anyone at Metro besides in the CIRT  
20 statement?  
21 A. Not -- I believe his -- his interview with  
22 us was the only interview that was conducted in  
23 reference to this investigation.  
24 Q. Reference to the CIRT investigation?  
25 A. Correct.

Page 59

1 Q. In which hold is the hand placement on the  
2 back of the neck applied, the rear naked choke or the  
3 LVNR?  
4 A. Rear naked choke.  
5 Q. And why is the hand placed in the back of  
6 the head?  
7 A. I believe it's to apply pressure to the  
8 back of the head forward into the encircling arm, but  
9 I'm not 100 percent sure.  
10 Q. And is that to avoid the person backing  
11 their head into --  
12 A. I don't know.  
13 Q. I've seen a training video in this case.  
14 Do you know why that training video on the LVNR was  
15 created?  
16 A. If you're referencing the one to the  
17 department?  
18 Q. Yes.  
19 A. I believe it was to talk about the  
20 differences between the LVNR and the chokehold or the  
21 rear naked choke.  
22 Q. Have you ever seen any training videos on  
23 the LVNR besides that one?  
24 A. I believe when we first got trained on in  
25 the academy, they had a video, but I'm not -- I don't

Page 61

1 Q. Do you know of any other interviews he's  
2 given?  
3 A. Oh, I don't know.  
4 Q. Did he give a public safety statement?  
5 A. He started to, and then it was stopped.  
6 Q. Who stopped it?  
7 A. His attorney John Eldridge I believe is who  
8 arrived on scene. Or the PPA attorney, not his  
9 attorney. I apologize.  
10 Q. When you're going to present your findings  
11 to a board, is that the CIRT board?  
12 A. Yes. We have two boards. Well, it's a  
13 CIRP process. The first board is the Use of Force  
14 Review Board, and then we roll right into what's  
15 called the TRB or Tactical Review Board. And the  
16 conclusions are presented at the Tactical Review  
17 Board.  
18 Q. So we've got two boards; Use of Force and  
19 Tactical Review. Is there an actual -- what is the  
20 CIRP proceeding where you go in and present your  
21 case?  
22 A. It's the CIRP process, the critical  
23 incident review process, and that's the two boards  
24 that run.  
25 Q. So are the two boards part of the CIRP

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

17 (Pages 62 to 65)

Page 62	Page 64
<p>1 process?</p> <p>2 A. Yes.</p> <p>3 Q. Who was on that board for this case?</p> <p>4 A. Our chairperson was Sheriff Tim Kelly,</p> <p>5 Assistant Sheriff Tim Kelly. Followed by Deputy</p> <p>6 Chief John McGrath.</p> <p>7 Bureau Commander for Lopera, Lif, Tran,</p> <p>8 Flores was Captain Pelletier.</p> <p>9 For Sergeant Crumrine, because at the time</p> <p>10 of the board he was over in Enterprise Area Command,</p> <p>11 I believe it would have been Captain Roxanne McDaris.</p> <p>12 It's Burke now. I apologize.</p> <p>13 Moving into our tactical expert which would</p> <p>14 have been Ryan Evans, Sergeant Ryan Evans. We had a</p> <p>15 peer officer who was Travis -- what's his name? I</p> <p>16 can't remember his name.</p> <p>17 And then we had a peer sergeant, which I</p> <p>18 believe was Noe Esparza, but I'm not a hundred</p> <p>19 percent sure on the two peer officers. It's</p> <p>20 Travis -- I can't remember his name.</p> <p>21 Q. Okay.</p> <p>22 A. And then we had four citizens that sat on</p> <p>23 the board.</p> <p>24 Q. So four citizens and how many Metro</p> <p>25 officers, six or seven?</p>	<p>1 votes?</p> <p>2 A. Citizens will actually outvote us on the</p> <p>3 Use of Force Board.</p> <p>4 Q. What about with respect to whether policy</p> <p>5 violations occurred?</p> <p>6 A. That happens in the Tactical Review Board</p> <p>7 and our citizens do not vote on that. And the reason</p> <p>8 being is because they're not privy to our tactics and</p> <p>9 training, but they're welcome to stay for the board.</p> <p>10 Q. And then with respect to policy</p> <p>11 recommendations that come out of this process, who</p> <p>12 makes those?</p> <p>13 A. That would be a meeting between the</p> <p>14 chairperson and the sheriff. But they are discussed</p> <p>15 in what we call deliberations which are not video or</p> <p>16 audio recorded and there's no notes taken.</p> <p>17 Q. So who participates in the discussion as to</p> <p>18 whether policy is going to change as a result of this</p> <p>19 process?</p> <p>20 A. Everyone on the board can participate and</p> <p>21 that's again in deliberations. But any formal</p> <p>22 recommendations is going to be a memo between the</p> <p>23 sheriff and the chairperson.</p> <p>24 Q. Who makes the recommendations to the</p> <p>25 sheriff or the chairperson?</p>
Page 63	Page 65
<p>1 A. For -- we have one peer officer for all</p> <p>2 officers and one peer sergeant for Sergeant Crumrine.</p> <p>3 And then everyone that was on the board was Officer</p> <p>4 Lopera, Officer Lif, Tran, Flores, Sergeant Crumrine,</p> <p>5 and I believe that's all that was invited to the</p> <p>6 board.</p> <p>7 Q. Were all the peer officers the same for all</p> <p>8 the officers involved?</p> <p>9 A. Yes.</p> <p>10 Q. So on the -- and then a vote is taken,</p> <p>11 correct?</p> <p>12 A. On the use of force, yes.</p> <p>13 Q. How many votes are there?</p> <p>14 A. So all -- everyone on the Use of Force</p> <p>15 votes, including the citizens, except for the</p> <p>16 chairperson. He is not a voting member on the Use of</p> <p>17 Force Board.</p> <p>18 Q. Okay. So what's the number? How many</p> <p>19 votes are there?</p> <p>20 A. Total, I don't remember who -- I don't</p> <p>21 remember how many votes. Everyone that I said except</p> <p>22 for the chairperson votes, but I don't remember how</p> <p>23 many votes -- how many voting sheets are actually</p> <p>24 there.</p> <p>25 Q. Are there more Metro votes than citizen</p>	<p>1 A. So it's a board that convenes during the</p> <p>2 deliberations. They talk about -- they talk about it</p> <p>3 and then whatever -- the chairperson will present the</p> <p>4 concerns to the sheriff. In between those two, they</p> <p>5 came up with discipline, policy changes or any other</p> <p>6 recommendations that could help the department.</p> <p>7 Q. And are citizens a part of that process</p> <p>8 with respect to policy changes?</p> <p>9 A. Yes. They can voice concerns but they're</p> <p>10 not voting on the board.</p> <p>11 Q. Do you know which citizens were on the</p> <p>12 board?</p> <p>13 A. I don't.</p> <p>14 Q. Do you know how they're selected?</p> <p>15 A. It's a process that they -- I believe we</p> <p>16 have like advertisements in like the newspaper. Word</p> <p>17 of mouth. They just can't have any affiliation to</p> <p>18 the department. Can't be married to anyone in the</p> <p>19 department. Can't be a former officer. And so</p> <p>20 they -- they come through a training of just what the</p> <p>21 process is, what's expected of them.</p> <p>22 And I believe that class is -- it might be</p> <p>23 like a -- I don't know how long the class is but they</p> <p>24 come to a class and we get an opportunity to meet</p> <p>25 them as well as because we have conversations with</p>

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

18 (Pages 66 to 69)

Page 66	Page 68
<p>1 them.</p> <p>2 Q. Okay. So they go through either some kind</p> <p>3 of PowerPoint or written training on how to be on</p> <p>4 that board?</p> <p>5 A. Yes.</p> <p>6 Q. Have you seen those training materials</p> <p>7 before?</p> <p>8 A. Yes.</p> <p>9 Q. Have you instructed?</p> <p>10 A. No.</p> <p>11 Q. So if we wanted to request those, we could</p> <p>12 get those?</p> <p>13 A. Yeah.</p> <p>14 MR. ANDERSON: Objection. Form.</p> <p>15 MR. LAGOMARSINO: Assuming there was no</p> <p>16 objection to producing those, correct?</p> <p>17 BY MR. LAGOMARSINO:</p> <p>18 Q. But if the judge ordered those produced, we</p> <p>19 could get those produced, right?</p> <p>20 A. I'm sure you could.</p> <p>21 Q. And so on the Lopera, Crumrine, Flores and</p> <p>22 Tran case, that occurred September '17?</p> <p>23 A. I believe so.</p> <p>24 Q. And you were present?</p> <p>25 A. Yes, I was.</p>	<p>1 Board presentation was just under maybe two and a</p> <p>2 half, three hours.</p> <p>3 Q. And was the presentation divided up into</p> <p>4 segments per officer or was it just all together?</p> <p>5 A. All together.</p> <p>6 Q. Okay. And it's my understanding that that</p> <p>7 presentation is audio recorded?</p> <p>8 A. Yes, it is.</p> <p>9 Q. And is your presentation factual?</p> <p>10 A. Yes.</p> <p>11 Q. Does your presentation consist of policy</p> <p>12 recommendations for changes?</p> <p>13 A. It's going to be in the TRB. But for the</p> <p>14 use of force, it's just the facts.</p> <p>15 Q. So the answer was "no"?</p> <p>16 A. No.</p> <p>17 Q. Was there testimony presented at that</p> <p>18 board?</p> <p>19 A. As far as?</p> <p>20 Q. Witness testimony or did independent</p> <p>21 witnesses testify about the incident?</p> <p>22 A. It's not really -- they don't really</p> <p>23 testify. I apologize if I'm getting confused. But</p> <p>24 during the board we have clips from the officers'</p> <p>25 statements that we will actually put into the board.</p>
Page 67	Page 69
<p>1 Q. What portion of that process were you</p> <p>2 present for?</p> <p>3 A. The entire thing.</p> <p>4 Q. Were you present during deliberations?</p> <p>5 A. No.</p> <p>6 Q. Where does the board deliberate?</p> <p>7 A. There's a couple of different locations on</p> <p>8 this particular board. I don't recall where they</p> <p>9 went but there's a conference room on the second and</p> <p>10 third floor that they all go into and convene. And</p> <p>11 again, on this particular board, I don't recall where</p> <p>12 they went.</p> <p>13 Q. And who presented the incident to the</p> <p>14 board?</p> <p>15 A. I did.</p> <p>16 Q. Did anybody else help you?</p> <p>17 A. No.</p> <p>18 Q. What did your presentation consist of?</p> <p>19 A. It was a PowerPoint that over -- that went</p> <p>20 through several sections which included persons</p> <p>21 involved, chronology, incident documentation, the</p> <p>22 medical response to include a new supervisor</p> <p>23 response, and any training policies and procedures.</p> <p>24 Q. How long was your presentation?</p> <p>25 A. It was long. I believe the Use of Force</p>	<p>1 Q. Okay.</p> <p>2 A. Into the PowerPoint so they can read along</p> <p>3 and they can also hear it. If that's what you're</p> <p>4 talking about, then yes, we do have that.</p> <p>5 Q. All right.</p> <p>6 A. But the officers do have a chance to talk</p> <p>7 after the presentation. At the conclusion of the</p> <p>8 presentation they have an opportunity to answer</p> <p>9 questions or add any additional comments.</p> <p>10 Q. Was that video of the difference between a</p> <p>11 rear naked choke and an LVNR played during your</p> <p>12 presentation?</p> <p>13 A. It was. And it wasn't the video in the</p> <p>14 academy. It was one that was put together for the</p> <p>15 purposes of the board.</p> <p>16 Q. Thank you for clarifying that.</p> <p>17 Do you know if the citizens are paid?</p> <p>18 A. It's all volunteer.</p> <p>19 Q. Do you know with respect to the vote, is it</p> <p>20 a majority vote that determines or is it 60 percent</p> <p>21 or...</p> <p>22 A. That's a good question. I think it's a</p> <p>23 majority vote. About 90 percent of our boards have</p> <p>24 been unanimous but I believe there has been like, for</p> <p>25 instance, a six to one vote.</p>



## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

20 (Pages 74 to 77)

Page 74	Page 76
<p>1 Office of Internal Oversight, you don't know if there 2 were one or more? 3 A. Correct. I have no idea what were the 4 recommendations. 5 Q. Where were those memos being maintained? 6 A. Sergeant Boveda would maintain those. 7 Q. And would you use an Excel spreadsheet to 8 track when the recommendations were being implemented 9 and so forth? 10 A. Yes. And for the Lopera case, I'm not sure 11 if they used the matrix or not. 12 Q. If we wanted to find out the names of the 13 citizens on the board, I'm assuming Metro keeps a 14 record of their names? 15 A. Yes, they do. 16 Q. Did you watch the press conference of 17 Captain McMahon regarding this incident? 18 A. Which one? 19 Q. Any of them. 20 A. Yes. 21 Q. Did you see the one where he said that 22 Tashi Farmer would not have been charged with a 23 crime? 24 A. I don't recall. 25 Q. Does Metro, to your knowledge, maintain</p>	<p>1 A. I don't know. 2 Q. Did he violate a policy with respect to the 3 body cam? 4 A. Yes, he did. 5 Q. What did he violate? 6 A. The fact that the policy states that the 7 body camera is to be turned on as soon as possible 8 once initiated on a call or dispatched to a call or 9 self-initiated. 10 Q. Tell me a little bit about the process of 11 determining what potential policy violations you were 12 going to be investigating at the outset of the 13 investigation? 14 A. We look at the overall incident. We sit 15 down in roundtable. Things that we see that can be, 16 again, it can be a body-worn camera; rolling code 17 three, which is lights and sirens, to an incident. 18 Officers approach, their tactical decision-making. 19 So we kind of look at everything. 20 And then go over the policies to make sure, 21 okay, for instance, Officer Tran, he didn't have it 22 on. The policy states this. Okay, that's going to 23 be a policy violation that will be introduced to the 24 Tactical Review Board. 25 Q. When you started interviewing Officer Tran,</p>
Page 75	Page 77
<p>1 news clips or media records about stories involving 2 its officers? 3 A. I don't know. I'm assuming they would, but 4 I don't know. 5 Q. Does the sheriff receive regular reports 6 regarding media on Metro? 7 A. I don't know. 8 Q. I guess I would have to ask the sheriff, 9 right? Okay. Or whoever is presenting with those, 10 correct? 11 A. Yeah. Public information officer, PIO 12 might know. 13 Q. Do you know why the body cameras don't have 14 sound for the first 30 seconds? 15 A. I don't. I believe it's a mechanism, 16 something to do with the actual internal workings of 17 the body camera, and I don't know. 18 Q. Have you ever heard of body cameras that do 19 record sound for all the time that they're activated? 20 A. I haven't, no. Do you mean from the time 21 it's turned on? 22 Q. Yes. 23 A. No. I don't know. 24 Q. Do you know if Officer Tran received 25 discipline for failure to use a body cam?</p>	<p>1 Officer Flores, and I believe Sergeant Crumrine, you 2 had made a statement that it's being alleged or that 3 they've failed to intervene. 4 What information did you utilize to 5 investigate that potential policy violation? 6 A. When we looked -- because of the amount of 7 time Officer Lopera had the decedent in the LVNR or 8 chokehold, at that time, what we knew was that was an 9 extended amount of time beyond policy. And so we 10 threw in there the duty to intervene and asked them 11 specifically about that policy. 12 Q. Let me just ask a general question about 13 the duty to intervene. 14 If -- and again, I'm talking generally. 15 I'm not talking necessarily about this specific 16 incident. 17 A. Okay. 18 Q. Okay? Let's say an officer -- there are 19 two officers on the scene. The first officer places 20 an individual in the LVNR for an extended period of 21 time. The second officer arrives on the scene and 22 observes the first officer applying the LVNR for a 23 period of time longer than policy. 24 The second officer says, hey, stop, hey, 25 release. Verbal commands. And the first officer</p>



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

21 (Pages 78 to 81)

Page 78	Page 80
<p>1 doesn't release the LVNR. Has the second officer 2 complied with the policy to intervene? 3 MR. ANDERSON: Objection. Form. 4 THE WITNESS: It depends on what the 5 subject's actions are at the time. The officers are 6 trained to make the situation safe. That was -- 7 that's what we're trained to do first, is to make 8 that safe. Once that scene is safe, then an officer 9 is expected to intervene if that hold is held for 10 longer. 11 BY MR. LAGOMARSINO: 12 Q. So I'll add those additional facts just so 13 we have a cleaner record. 14 Same hypothetical situation but we're going 15 to add facts, okay? 16 First officer places subject into LVNR for 17 an extended period of time. 18 Second officer arrives. Observes first 19 officer placing subject -- or keeping subject in 20 LVNR. Subject is not a threat, is not punching, and 21 second officer says verbally release LVNR. 22 First officer doesn't release LVNR. 23 Does the second officer have a duty then, 24 at that point, to physically intervene and remove the 25 LVNR hold or attempt to remove the LVNR hold from the</p>	<p>1 physically intervene? 2 A. I'm sorry, say that again. 3 Q. In your last answer you said -- you added 4 that the subject would have to be in handcuffs. So I 5 want to ask a new question. 6 There's different types of interventions so 7 let me kind of back it up a little bit and then we'll 8 go to lunch, but not together. 9 So you can verbally intervene, correct? 10 A. Yes. 11 Q. But if the situation requires physical 12 intervention, then physical intervention is required, 13 correct? 14 A. Yes. 15 MR. ANDERSON: Objection. Form. 16 BY MR. LAGOMARSINO: 17 Q. If the situation requires physical 18 intervention, then verbal intervention is not enough 19 to satisfy the duty to intervene, correct? 20 MR. ANDERSON: Objection. Form. 21 THE WITNESS: It could, yeah. 22 BY MR. LAGOMARSINO: 23 Q. I just need a slightly clearer record, so 24 I'll ask the same question. 25 If a situation requires physical</p>
Page 79	Page 81
<p>1 subject? 2 MR. ANDERSON: Objection. Form. 3 MR. McNUTT: Join. 4 THE WITNESS: Again, it depends on the 5 perception of that officer. We're trained to take 6 that person into custody, put him in handcuffs, make 7 that situation, that scene safe before the LVNR would 8 be released. 9 BY MR. LAGOMARSINO: 10 Q. If the situation was safe, would the 11 second officer have a duty to physically remove the 12 hold? 13 MR. ANDERSON: What do you mean by "safe"? 14 Objection. Form. 15 MR. LAGOMARSINO: Well, I'm just using her 16 word. 17 BY MR. LAGOMARSINO: 18 Q. So if it's safe? 19 A. If it's deemed safe by the officer, if that 20 person is in handcuffs, is no longer a threat to any 21 officer on scene, not just the perceiving officer who 22 is perceiving that there's no movement, once that -- 23 again, once it is safe by all officers, then yes, the 24 officer would have a duty to intervene. 25 Q. Does the subject have to be in handcuffs to</p>	<p>1 intervention, then verbal intervention is not enough, 2 correct? 3 MR. ANDERSON: Objection. Form. 4 THE WITNESS: It depends, yeah. I mean, if 5 an officer would have to go -- if he's not -- I don't 6 know. I don't know how to answer that. 7 MR. LAGOMARSINO: Okay. All right. Take a 8 lunch break. 9 I don't know if you want to come back like 10 1:15? 11 MR. ANDERSON: You have a phone call? 12 MR. LAGOMARSINO: Yeah, but it should start 13 at 1:00. 14 MR. ANDERSON: Okay. 15 THE VIDEOGRAPHER: The time is 16 approximately 12:04 p.m. We are going off the 17 record. 18 (A recess was taken from 12:04 p.m. 19 to 1:29 p.m.) 20 THE VIDEOGRAPHER: The time is 21 approximately 1:29 p.m. We are back on the record. 22 BY MR. LAGOMARSINO: 23 Q. You understand you're still under oath? 24 A. Yes, I do. 25 Q. All right.</p>

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

22 (Pages 82 to 85)

Page 82	Page 84
<p>1 (Exhibit 1 was marked for 2 identification.) 3 BY MR. LAGOMARSINO: 4 Q. Exhibit 1 are excerpts from the CIRT 5 statements that were provided by Metro in this case. 6 A. Okay. 7 Q. They're not the complete statements. Just 8 parts. 9 A. Okay. 10 Q. We'll be identifying the documents by Bates 11 number, which is on the bottom right-hand side. 12 MR. McNUTT: More maintenance on the 13 building? 14 MR. LAGOMARSINO: No. They're totally 15 remodeling. 16 BY MR. LAGOMARSINO: 17 Q. So you were present at this statement, 18 correct? 19 A. Yes, I was. 20 Q. All right. And PH is indicated here as -- 21 is that Patrick Hughes? 22 A. Yes, it is. 23 Q. Okay. Who is Patrick Hughes? 24 A. He was a detective with me in CIRT. 25 Q. Did Patrick Hughes say to Michael Tran,</p>	<p>1 the subject," and Michael Tran's answer was "No." 2 Correct? 3 A. Yes. 4 Q. Did Officer Lopera have a recollection 5 during his interview of the number of times that he 6 tased Tashi Farmer? 7 A. No. He did not. He did not know how many 8 times he pulled the trigger. 9 Q. Going at line 8, you're asking about, 10 during that section, palm reviving techniques. Were 11 you trained on reviving techniques at the Academy? 12 A. Yes, I was. 13 Q. And did you examine in this case or 14 investigate whether proper CPR was given by Tran, 15 Flores or Crumrine after the incident? 16 MR. ANDERSON: Objection. Form. 17 THE WITNESS: CPR, no. 18 BY MR. LAGOMARSINO: 19 Q. Why didn't you investigate that? 20 A. That's not one of the things that we look 21 at or examine. What we look at is medical attention 22 and whether medical -- whether or not they had asked 23 for medical, paramedics or AMR or FD to arrive on the 24 scene to do their medical training -- or to do their 25 medical techniques.</p>
Page 83	Page 85
<p>1 prior to your arrival you failed to activate your 2 body-worn camera and also you failed to intervene 3 while the application of the LVNR was applied on the 4 subject? 5 A. Yes, he did. 6 Q. Going to the next page, which is jumping 7 ahead to 1956, you asked at line 6: "Okay. There 8 was no resistance from the subject when you arrived?" 9 Were you basically saying -- asking there 10 was no resistance from Tashi Farmer when Michael Tran 11 arrived on the scene? 12 A. Yes. 13 Q. And what did Michael Tran say? 14 A. On line 7 he says "Nope." 15 Q. Do you take that to mean that there was no 16 resistance when Michael Tran arrived? 17 A. From Michael Tran's perception, yeah, he 18 did not see resistance. 19 Q. Did anybody tell you that Tashi Farmer was 20 resisting when Michael Tran arrived on the scene? 21 A. I believe in another statement from Officer 22 Flores and Sergeant Crumrine, when they arrived there 23 was resistance. 24 Q. Going to 1961, the question at line 3 is 25 from you: "Did Officer Lopera ever tell you he tased</p>	<p>1 Q. So if a subject is not reviving after 10, 2 20 seconds of being let go of the LVNR, and after 3 palm reviving techniques and other techniques are 4 used, is it department policy to utilize CPR from the 5 officers to try to revive that subject? 6 A. Not in policy, no. 7 Q. How about in training? 8 A. Not in training either, no. 9 Q. Did you examine in your investigation all 10 the training regarding reviving an individual who had 11 an LVNR applied to them? 12 A. I don't understand the question. 13 Q. Okay. Did you look at training in your 14 investigation to see if the officers at the scene 15 complied with their training in reviving the 16 individual? 17 A. Yes. 18 Q. And you looked at all the training, 19 correct? 20 A. Yes. 21 Q. Going to the last page, LVMPD2002, you 22 asked -- 23 MR. McNUTT: I'm sorry, did you say the 24 last page? 25 MR. LAGOMARSINO: 2002, the last page.</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

23 (Pages 86 to 89)

<p style="text-align: right;">Page 86</p> <p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. "Looking back on this incident, is there</p> <p>3 anything else you would have done differently" is</p> <p>4 what you asked Officer Tran, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And what was his response?</p> <p>7 A. On line 16 he says, "Um, I should have</p> <p>8 started CPR."</p> <p>9 Q. Did you agree with him?</p> <p>10 A. So these are the questions that we ask at</p> <p>11 the end of interview and they are kind of hindsight</p> <p>12 questions. And it's kind of reflections on the</p> <p>13 officers as far as what they would do differently,</p> <p>14 nothing that we would necessarily hold for a CIRT</p> <p>15 board.</p> <p>16 (Exhibit 2 was marked for</p> <p>17 identification.)</p> <p>18 BY MR. LAGOMARSINO:</p> <p>19 Q. Exhibit 2 are excerpts from the CIRT</p> <p>20 statement of Officer Michael Flores.</p> <p>21 Do you have that in front of you?</p> <p>22 A. Yes, I do.</p> <p>23 Q. And I'm sorry, just to go back to Exhibit 1</p> <p>24 for a moment.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 88</p> <p>1 A. It's not necessarily policy, but it's</p> <p>2 trainings and tactics and part of decision making.</p> <p>3 Q. And the next question, although it's not</p> <p>4 highlighted, is at line 8. It says, "En route to</p> <p>5 Venetian, any reason why you did not activate your</p> <p>6 body camera while rolling code?"</p> <p>7 I would ask you is it policy and training</p> <p>8 of Metro to activate body cameras while rolling code?</p> <p>9 A. Yes, it is.</p> <p>10 Q. Do you have an understanding of what the</p> <p>11 punishment or discipline is for not activating body</p> <p>12 camera?</p> <p>13 A. I don't. I don't know what the discipline</p> <p>14 matrix would be on this. Or what would fall within</p> <p>15 the matrix, I should say.</p> <p>16 Q. And going to LVMPD1886, which is page 28 of</p> <p>17 the CIRT statement, the question -- it says at line</p> <p>18 5, middle, it says, "And you said you folded his legs</p> <p>19 to gain compliance. Is there a technique that's</p> <p>20 taught in the Academy?"</p> <p>21 Is it your understanding that if the</p> <p>22 subject has their torso down on the pavement, that</p> <p>23 it's within Metro policy and training to fold an</p> <p>24 individual's legs back up to their buttocks?</p> <p>25 A. It is an option that officers have.</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Do the pages that I've shown you appear to</p> <p>2 you to be a true and correct copy of the pages from</p> <p>3 the CIRT statement?</p> <p>4 A. Yes.</p> <p>5 Q. So going to Exhibit 2, the Flores excerpt.</p> <p>6 So who is GW?</p> <p>7 A. That is Greg Watkins or Gregory Watkins.</p> <p>8 Q. He's on the CIRT team?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did Gregory Watkins say to Officer Michael</p> <p>11 Flores, number one, "Prior to your arrival you failed</p> <p>12 to activate your body-worn camera," and number two,</p> <p>13 "You failed to intervene while the application of the</p> <p>14 LVNR was applied to the subject"?</p> <p>15 A. Yes.</p> <p>16 Q. Going to page 1874 from the statement at</p> <p>17 line 5, it says, "Did you and Officer Tran conduct</p> <p>18 any preplanning of any incident rehearsal while en</p> <p>19 route to the location?"</p> <p>20 You asked that question, correct?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And Mr. Flores's answer was "no," correct?</p> <p>23 A. Yes.</p> <p>24 Q. Is preplanning on the way to an incident</p> <p>25 part of Metro policy and training?</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. So yes?</p> <p>2 A. Yes. But it depends on the scenario as</p> <p>3 well. It's not something you have to use. It's not</p> <p>4 a policy that you must use. It's an option for</p> <p>5 officers to use.</p> <p>6 Q. Was Tashi Farmer resisting when they folded</p> <p>7 his legs up to gain compliance?</p> <p>8 A. I would have to read his whole statement to</p> <p>9 recall.</p> <p>10 Q. Fair enough.</p> <p>11 Was Tashi Farmer in medical crisis after he</p> <p>12 was released from the LVNR?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you have an opinion or an estimate as to</p> <p>15 when Sergeant Crumrine took charge of the scene, if</p> <p>16 at all?</p> <p>17 A. I believe in the CIRT report we came up</p> <p>18 with, I believe it was about ten minutes after the</p> <p>19 decedent was taken into custody.</p> <p>20 Q. Going to the last page, 1934, which is</p> <p>21 page 76 of the statement, asking the question I</p> <p>22 believe about what could have been done. There's a</p> <p>23 statement, line 8, it says, "But I feel as if the</p> <p>24 communication could have been better."</p> <p>25 Did you make any conclusions in your</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

26 (Pages 98 to 101)

Page 98	Page 100
<p>1 physically check out a binder or a case file.</p> <p>2 Q. And then how do you verify that they've</p> <p>3 actually read it? I mean to me -- let me withdraw</p> <p>4 that question.</p> <p>5 This is a big CIRT file, right?</p> <p>6 A. It's -- I believe I have three binders for</p> <p>7 this case, yes.</p> <p>8 Q. How do you verify that they've actually</p> <p>9 read that file?</p> <p>10 A. I mean, we don't do pop quizzes or anything</p> <p>11 with them. But when they come to the board, they're</p> <p>12 expected to have read the material so we're not</p> <p>13 asking the same questions over and over again.</p> <p>14 Q. All right. Going to 403.</p> <p>15 A. Okay.</p> <p>16 Q. States "The CIRT chairperson will," and</p> <p>17 then it lists some items there 1 through 6.</p> <p>18 Going to the 4B, it says, "The TRB will</p> <p>19 vote on CIRT conclusions based on the majority vote,</p> <p>20 either validating, overturning, modifying each of the</p> <p>21 conclusions presented by CIRT."</p> <p>22 So you present conclusions, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Did you present approximately 20?</p> <p>25 A. Yeah. There's quite a few, yes, sir.</p>	<p>1 include that he did not have -- his radio traffic he</p> <p>2 didn't provide. He lost sight of the subject. He</p> <p>3 was by himself.</p> <p>4 And there's a fourth one there I can't</p> <p>5 recall off the top of my head, but that all</p> <p>6 encompassed into one conclusion of the violation of</p> <p>7 the foot pursuit policy.</p> <p>8 Q. Was a determination made that he would have</p> <p>9 probable cause to --</p> <p>10 A. Yeah. He had -- when we spoke with our</p> <p>11 SMEs, he had reasonable suspicion.</p> <p>12 Q. All right. So we have the radio traffic,</p> <p>13 two findings. Dispatcher, conclusion. The foot</p> <p>14 pursuit. What's the next one?</p> <p>15 A. The next one would have been the use of the</p> <p>16 ECD, electronic control device. After the first use,</p> <p>17 it was -- it should have been deemed ineffective.</p> <p>18 However, he continued to use it and that was a</p> <p>19 violation of our policy. And the duration of each</p> <p>20 trigger pull.</p> <p>21 MR. McNUTT: I'm sorry, did you say after</p> <p>22 the first use?</p> <p>23 THE WITNESS: Correct.</p> <p>24 BY MR. LAGOMARSINO:</p> <p>25 Q. And then the duration, how did he violate</p>
Page 99	Page 101
<p>1 Q. Do you remember many of them as you sit</p> <p>2 here today?</p> <p>3 A. Probably the majority of them, I would say.</p> <p>4 Q. Can you take us through the conclusions. I</p> <p>5 understand, but just for the record, that you're not</p> <p>6 expected to recite them word by word.</p> <p>7 A. Okay.</p> <p>8 Q. But just generally can you tell us what</p> <p>9 they are?</p> <p>10 A. Uh-huh. The first one would have been</p> <p>11 radio traffic communication. And there was two</p> <p>12 negatives, one for Officer Lopera and one for</p> <p>13 Officer Lif. And it was both the fact that they did</p> <p>14 not utilize their radio and provide radio traffic.</p> <p>15 The third conclusion would have been for</p> <p>16 communications bureau which encompasses our call</p> <p>17 takers and dispatchers, and that was a positive</p> <p>18 conclusion saying that they acted in accordance with</p> <p>19 their policies and training.</p> <p>20 The next conclusion -- sorry, format has</p> <p>21 changed. Our next one would have been the foot</p> <p>22 pursuit policy which Officer Lopera violated.</p> <p>23 Q. How did he violate that?</p> <p>24 A. There's eight indicators in policy for when</p> <p>25 a foot pursuit should be continued and that was to</p>	<p>1 the duration?</p> <p>2 A. By policy it's when you pull the trigger</p> <p>3 it's got a five-second spark display. However, I</p> <p>4 believe in the last trigger pull, he held it down for</p> <p>5 approximately nine seconds.</p> <p>6 Q. Okay. What was the next one?</p> <p>7 A. I believe it was empty hand strikes.</p> <p>8 Q. And that was for Lopera?</p> <p>9 A. Yes.</p> <p>10 Q. Also negative conclusion?</p> <p>11 A. Negative conclusion.</p> <p>12 Q. And why was it negative?</p> <p>13 A. It was excessive.</p> <p>14 Q. Okay.</p> <p>15 A. Next one was LVNR, which we previously</p> <p>16 stated had --</p> <p>17 Q. Let me interrupt you. Sorry.</p> <p>18 How many strikes did he use, approximately?</p> <p>19 A. Approximately, I believe it was -- in the</p> <p>20 report I put 13, 12 or 13 strikes, approximately.</p> <p>21 Q. And were they all excessive or were they</p> <p>22 excessive only after a certain number?</p> <p>23 A. All excessive.</p> <p>24 Q. Okay. All right. So I'm sorry, the next</p> <p>25 one was LVNR?</p>



## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

27 (Pages 102 to 105)

Page 102

1 A. LVNR, and that was rolled into a  
2 truthfulness. So it was a completely separate  
3 conclusion. So it was the excessive hand strikes,  
4 and then LVNR and hand strikes moved into a  
5 truthfulness conclusion.  
6 Q. Okay.  
7 A. Next one would have been medical  
8 intervention which was positive for the officers who  
9 arrived on the scene. And that was to include the  
10 request to expedite medical several times.  
11 We had two negative conclusions for  
12 supervision and that would be for Sergeant Crumrine.  
13 Q. Okay. And can you tell me about those?  
14 A. Neglect of duty. And that was for failure  
15 to take command and control of a critical incident.  
16 Q. And what else?  
17 A. And this one they rolled -- this is the one  
18 that they modified, I think, in the voting and I  
19 can't remember how it was modified. There was two.  
20 Q. So there were two supervision-based  
21 conclusions. One was a neglect of duty for failure  
22 to establish command and control at the scene?  
23 A. Yes.  
24 Q. And what was the other?  
25 A. I can't remember what it was.

Page 103

1 Q. Okay. Probably look at the documentation  
2 to find out, right?  
3 A. Yeah. I would have to.  
4 Q. Okay. What's the next one?  
5 A. Did we get medical intervention already?  
6 Q. We do. Because they expedited.  
7 A. There's a negative for body-worn cameras.  
8 Q. Is it like multiple negatives for each  
9 officer or --  
10 A. Yeah. This one, what we did was put it  
11 under a general conclusion and stated that multiple  
12 officers failed to activate their body camera. And  
13 that would have encompassed Tran, Flores, Crumrine,  
14 and I believe Officer Lif was in that as well because  
15 she didn't activate hers.  
16 Q. Okay.  
17 A. There were no negative for policy failures.  
18 No negative for training.  
19 Q. One moment, please.  
20 A. Yep.  
21 Q. So since there was no negative for policy  
22 failures, what policies does that cover?  
23 A. So what that means for us is that there  
24 were no policies that failed the officers, I guess is  
25 the best way to say it. The best way I can explain

Page 104

1 it is when we had that resident officer that violated  
2 the policy for low lethal, in that conclusion we said  
3 that there was a policy failure on the department  
4 because it failed our resident officer from utilizing  
5 a low lethal option instead of going right to  
6 handgun. So in this case there were no policies that  
7 were restrictive on the officers.  
8 Q. So is it fair to say, and please don't  
9 hesitate to disagree with me, but unless you  
10 otherwise noted that a policy was violated,  
11 everything else was according to policy, correct?  
12 A. No. Yeah, this is kind of a tough one to  
13 explain. It's -- we look at our policies. Do we  
14 need to change any of our policies because they were  
15 too restrictive on an officer.  
16 So it's not necessarily were any policies  
17 violated because obviously we have negative  
18 conclusions that policies were violated. This is  
19 looking at do we need to change a policy altogether  
20 to make our department better.  
21 Q. Okay. So no negative policy. I get that  
22 with the explanation. So what was the next one?  
23 A. It would have been training. And this is  
24 where we see all of our involved officers and witness  
25 officers were within their compliance of our

Page 105

1 training. So did they attend AOST, advanced officer  
2 safety training; RBT, reality-based training; were  
3 they qualified on their firearms.  
4 So with that there was no negative.  
5 Everyone was compliant with their training.  
6 Q. So on that particular one, it's not an  
7 assessment whether they acted within their training,  
8 it's more were they current on their training on the  
9 day of the incident?  
10 A. Correct.  
11 Q. Okay. So far I've got roughly 13.  
12 A. There might have been two actually for  
13 medical, because the request for -- to expedite  
14 medical. And then we had two officers, I believe  
15 it's Kravetz and Amburgey, that performed CPR. We  
16 gave them a positive conclusion for jumping in and  
17 doing that.  
18 Q. If they're not required to do CPR, then why  
19 would it be part of the assessment?  
20 A. Because they went above and beyond.  
21 Q. There was no finding of above and beyond  
22 for Tran, Flores or Crumrine, correct?  
23 A. Correct.  
24 Q. All right.  
25 A. We said body cam, right?



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

31 (Pages 118 to 121)

Page 118	Page 120
<p>1 custody we don't leave them either on their back or 2 on their stomach because of the face asphyxiation 3 position." 4 What is he referring to there? Is he 5 saying when somebody is on their back or their 6 stomach, it's the asphyxiation position? 7 A. What he's -- it's called the recovery 8 position. It's what we're taught along with the palm 9 reviving strikes, is not to leave someone on their 10 chest but to prop them up on the side to help that 11 airway, help that breathing. 12 Q. And was Farmer in the asphyxiation position 13 before Amburgey arrived at the scene? 14 MR. ANDERSON: Object to the form. 15 THE WITNESS: I don't recall. 16 BY MR. LAGOMARSINO: 17 Q. Next one. 18 (Exhibit 6 was marked for 19 identification.) 20 BY MR. LAGOMARSINO: 21 Q. So this is excerpts from the statement of 22 Sergeant Crumrine. 23 A. Okay. 24 Q. Before we get to this, were you able to 25 remember during the break or any other time today</p>	<p>1 Q. Going to 1636. There's a question about 2 using the MDT, so I think that's -- was it mobile 3 data terminal? 4 A. Yes. 5 Q. Is it policy to use mobile -- a mobile data 6 terminal on the way to an incident to try to gather 7 information about the incident? 8 A. Is it a policy? 9 Q. Yeah. 10 A. I think it's more of a training and tactic. 11 I don't know if it's necessarily a policy. 12 Q. Going all the way back to 1647. 13 A. Okay. 14 Q. At lines 6 through 7, I think you're 15 referring to Crumrine saying "Get your..." -- strike 16 that. 17 PH is Patrick Hughes, correct? 18 A. Yes, it is. 19 Q. So Patrick Hughes is quoting Crumrine 20 saying, quote, "Get your fucking hands behind your 21 back." 22 Is it policy to curse at subjects? 23 MR. McNUTT: Objection. Form. 24 THE WITNESS: There's no policy against 25 cursing.</p>
Page 119	Page 121
<p>1 what the last name was of the other Travis? 2 A. No. 3 Q. All right. So at 1620, KK is you, correct? 4 A. Yes. 5 Q. And you said to Sergeant Crumrine at lines 6 28 through 31, "Prior to your arrival, you failed to 7 activate your body-worn camera. You failed to 8 intervene while the application of the LVNR was 9 applied on the subject and you failed to take command 10 and control of the scene and ensure medical was 11 expedited in an appropriate amount of time." 12 A. I don't have that page. 13 Q. Oh. I gave you a different one. 14 So I'll just repeat the question for the 15 record. 16 So apparently we've got page 1620, correct? 17 A. Yes, I've got it now. 18 Q. And did you say the words to Sergeant 19 Crumrine prior to your arrival, "You failed to 20 activate your body-worn camera. You failed to 21 intervene while the application of the LVNR was 22 applied on the subject, and you failed to take 23 command and control of the scene and ensure medical 24 was expedited in an appropriate amount of time"? 25 A. Yes.</p>	<p>1 BY MR. LAGOMARSINO: 2 Q. Is -- does cursing and yelling at a subject 3 escalate the situation? 4 MR. ANDERSON: Objection. Form. 5 THE WITNESS: Or it can de-escalate the 6 situation. 7 BY MR. LAGOMARSINO: 8 Q. It can be either/or? 9 A. Yes, sir. 10 Q. Was there any discussion regarding the use 11 of profanity during your investigation? 12 A. No, there was not. 13 Q. I'm going back to 1655, please. So there's 14 a question from Patrick Hughes. It says, "As a 15 sergeant on a dynamic scene where officers are doing 16 potentially CPR or managing that subject that's in 17 custody, why would you take the initiative to go to 18 your car to use the MDT to run the subject?" 19 Why was that question asked? 20 A. The reason being is because this had fallen 21 in line with the fact that Sergeant Crumrine had 22 failed to act and take control of a dynamic scene. 23 He took it upon himself to go take the decedent's ID 24 and go run him, which he could have easily passed off 25 to another officer and continue to focus on his</p>

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

32 (Pages 122 to 125)

Page 122	Page 124
<p>1 responsibilities as a supervisor.  2 Q. And was that a conscious decision by  3 Crumrine to do that?  4 MR. ANDERSON: Objection. Form.  5 THE WITNESS: Yeah. Apparently.  6 BY MR. LAGOMARSINO:  7 Q. And he admitted there were enough officers  8 there that he could have given -- passed the ID off,  9 correct?  10 A. Yes.  11 Q. There's some discussion at page 1656 about  12 the crime of resisting a police officer, lines 18  13 through 22.  14 Do you see that?  15 A. Yes.  16 Q. Is it a crime to resist a police officer if  17 a subject's constitutional rights are being violated?  18 MR. ANDERSON: Objection. Form.  19 THE WITNESS: In this case, Sergeant  20 Crumrine perceived that the decedent was resisting  21 Officer Lopera.  22 BY MR. LAGOMARSINO:  23 Q. Let me ask the question just in general.  24 A. Okay.  25 Q. Is it a crime of resisting a police officer</p>	<p>1 MR. ANDERSON: Objection. Form.  2 THE WITNESS: I believe with the perception  3 that he saw, that could have possibly been the reason  4 why Tashi Farmer was rendered unconscious.  5 BY MR. LAGOMARSINO:  6 Q. In watching all the body cams, I noticed  7 that there were a number of officers who would tell  8 other officers to shut their body cams off when they  9 were talking about the incident.  10 Is that within policy to shut your body  11 camera off when you're talking about the incident?  12 A. I believe that policy was changed. At the  13 time I believe the policy stated when the scene is  14 static or if you're going to have a debrief of the  15 incident, that you are to turn off your body camera.  16 In this particular instance, I believe it  17 was Officer Lif that had turned her body camera off  18 and on several times. And when asked about it, she  19 had stated that it was -- that she was talking to  20 Officer Lopera and Sergeant Crumrine about what was  21 going on and what her perception was of everything,  22 so she turned off her body camera.  23 Q. Was it within policy to do that?  24 A. At the time, yes.  25 Q. Has it changed since that time?</p>
Page 123	Page 125
<p>1 if -- strike that.  2 Is it a crime for somebody to resist a  3 police officer if their constitutional rights are  4 being violated?  5 MR. ANDERSON: Objection. Form.  6 THE WITNESS: Again, it depends on --  7 generally speaking, it would depend on the totality  8 of the circumstances.  9 BY MR. LAGOMARSINO:  10 Q. So if somebody's constitutional rights are  11 being violated, it still could be a crime to resist a  12 police officer?  13 MR. ANDERSON: Objection. Form.  14 THE WITNESS: Again, without knowing all  15 the facts.  16 BY MR. LAGOMARSINO:  17 Q. 1683, please. There's a question from  18 Patrick Hughes. It says, "Did you start to think his  19 LV application of the LVNR is what caused the subject  20 to be rendered unconscious?"  21 And Crumrine said "yes," correct?  22 A. Yes.  23 Q. Do you agree with Sergeant Crumrine's  24 perception, that the LVNR is what caused Tashi Farmer  25 to be rendered unconscious?</p>	<p>1 A. Yes, it has.  2 Q. Has it changed because of this case?  3 A. I don't know if it's because of this case  4 or just in general.  5 Q. Is it fair to say that having somebody's  6 recorded recollection of an incident literally at the  7 time of the incident can be evidence of what occurred  8 in an incident?  9 MR. ANDERSON: Objection. Form.  10 MR. McNUTT: Form.  11 THE WITNESS: Yes.  12 BY MR. LAGOMARSINO:  13 Q. If you're shutting off the camera, then  14 you're potentially suppressing valuable evidence?  15 MR. ANDERSON: Objection. Form.  16 MR. McNUTT: Objection. Form.  17 THE WITNESS: It could be seen that way,  18 yes.  19 BY MR. LAGOMARSINO:  20 Q. Going to 1703. Patrick Hughes asked Travis  21 Crumrine, "Do you feel any time that he's applying  22 the LVNR you could have interceded to stop Officer  23 Lopera's application?"  24 Crumrine said, "I could have, yes."  25 Next question, "Do you believe you should</p>

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

33 (Pages 126 to 129)

Page 126	Page 128
<p>1 have?"</p> <p>2 Crumrine, "No."</p> <p>3 So based on your investigation, could</p> <p>4 Crumrine have interceded to stop the application of</p> <p>5 the LVNR?</p> <p>6 A. In our investigation, he did.</p> <p>7 Q. And based on what?</p> <p>8 A. The fact that he gave verbal commands. He</p> <p>9 attempted to help Officer Lopera, Lif and Flores take</p> <p>10 the decedent into custody at the time.</p> <p>11 Q. Did any officer ever try to remove Officer</p> <p>12 Lopera's arms from Tashi Farmer's neck?</p> <p>13 A. Physically, no. I don't think so.</p> <p>14 Q. There's a question -- there's a question on</p> <p>15 page 95 that says, "Okay. In hindsight, do you think</p> <p>16 the incident could have been approached in a way that</p> <p>17 presented less risk to yourself or others?"</p> <p>18 Answer, "Yes."</p> <p>19 Going to the next page at 1715, at line 2,</p> <p>20 Crumrine says, "Well, I -- my -- the Officer Lopera</p> <p>21 could have -- could have more appropriately chosen</p> <p>22 his force options."</p> <p>23 Do you agree as an investigator Lopera</p> <p>24 could have more appropriately chosen his force</p> <p>25 options?</p>	<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. Officer Lif asked certain officers to turn</p> <p>3 off their body cameras, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Which officers do you have knowledge of</p> <p>6 Officer Lif asking to shut off their body cameras?</p> <p>7 A. I know it was -- I don't recall. It was</p> <p>8 either -- I don't recall. There was another officer.</p> <p>9 Q. Okay.</p> <p>10 To your knowledge, who are all the</p> <p>11 individuals that received your CIRT report?</p> <p>12 A. If you mean received, they've never -- they</p> <p>13 got an opportunity to read it while they were in the</p> <p>14 office but they never were allowed to leave with it.</p> <p>15 The only person that would have a copy would be</p> <p>16 Assistant Chief Tim Kelly because he is a chairperson</p> <p>17 of the board.</p> <p>18 Q. Did you send the report through your chain</p> <p>19 of command?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Did you send it to a sergeant?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Who was that?</p> <p>24 A. That would be Sergeant Kyle Ward.</p> <p>25 Q. Did you send it to your lieutenant?</p>
Page 127	Page 129
<p>1 MR. ANDERSON: Objection. Form.</p> <p>2 THE WITNESS: Yes. We had a conclusion of</p> <p>3 excessive use of force.</p> <p>4 BY MR. LAGOMARSINO:</p> <p>5 Q. Which options should he have chosen?</p> <p>6 MR. ANDERSON: Objection. Form.</p> <p>7 THE WITNESS: Ones that fall within the --</p> <p>8 his threat assessment.</p> <p>9 BY MR. LAGOMARSINO:</p> <p>10 Q. Which ones would those have been?</p> <p>11 A. He could have used empty hand tactics to</p> <p>12 take him into custody.</p> <p>13 Q. Any others?</p> <p>14 A. I would have to look at the model to take a</p> <p>15 look at what all options were available at the time.</p> <p>16 Q. Did you write in the report what</p> <p>17 alternative force options he could have used?</p> <p>18 A. No.</p> <p>19 Q. Do you have knowledge of Officer Lif asking</p> <p>20 officers other than Lopera to shut off their body</p> <p>21 cameras?</p> <p>22 MR. McNUTT: I'm sorry, other than --</p> <p>23 actually, just repeat it -- or read it back, please.</p> <p>24 MR. LAGOMARSINO: I am -- I can rephrase</p> <p>25 it.</p>	<p>1 A. Yes.</p> <p>2 Q. Who was that?</p> <p>3 A. Lieutenant Dan Bledsoe.</p> <p>4 Q. And to your knowledge, was that sent to the</p> <p>5 sheriff?</p> <p>6 A. I don't know.</p> <p>7 Q. And do you still have a copy of that</p> <p>8 report?</p> <p>9 A. It is housed in what we call an IPRO, which</p> <p>10 is our internal organization for reports and CIRT</p> <p>11 case files.</p> <p>12 Q. Did you draw a conclusion as to whether or</p> <p>13 not Lopera used the LVNR or a rear naked choke?</p> <p>14 A. I believe in the conclusion, if I remember,</p> <p>15 he referred to it as a chokehold. I can't remember</p> <p>16 the verbiage I used in the report.</p> <p>17 Q. Well, LVNR is authorized, correct?</p> <p>18 A. LVNR is authorized by the department.</p> <p>19 Q. And rear naked is not, right?</p> <p>20 A. Yes.</p> <p>21 Q. Did you draw a conclusion as to whether he</p> <p>22 used an authorized chokehold or not authorized</p> <p>23 chokehold?</p> <p>24 A. I don't remember verbatim what was in the</p> <p>25 report.</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

34 (Pages 130 to 133)

Page 130	Page 132
<p>1 Q. Would you have presented to the board on 2 that issue? 3 A. Yes. I believe it was an improper hand 4 placement. I can't remember. 5 Q. Were your conclusions on whether Crumrine, 6 Tran or Flores failed to intervene based on -- strike 7 that. 8 Was your conclusion that Tran, Flores and 9 Crumrine failed -- it's getting late for me, too. 10 I'm getting tired. 11 You came to the conclusion that Crumrine, 12 Tran and Flores intervened, correct? 13 A. Yes. 14 Q. And you came to that conclusion based on 15 their statement of what they perceived, correct? 16 A. Perceived, and the actions that they took 17 during. 18 Q. Okay. Now, if excessive force is being 19 used by an officer, in general, surrounding officers 20 have a duty to intervene, correct? 21 MR. ANDERSON: Objection. Form. 22 THE WITNESS: In theory, yes. 23 BY MR. LAGOMARSINO: 24 Q. So if a rear naked choke was being applied, 25 which is an unauthorized technique, then Tran, Flores</p>	<p>1 used, there would be no duty to intervene, correct? 2 A. At that point, the officers would make the 3 scene safe, which would be taking the decedent into 4 custody with two handcuffs around the wrists. 5 Q. So if there were no handcuffs, there would 6 be no duty to intervene? 7 A. Depending on their perception and what they 8 saw at the time. 9 Q. Okay. So let's assume that they saw that 10 he wasn't handcuffed with both wrists and he was in a 11 rear naked choke, assuming they saw that, that's a 12 hypothetical, they would have had a duty to 13 intervene? 14 MR. ANDERSON: Objection. Form. 15 THE WITNESS: They would have a duty to 16 take the decedent into custody and ensure that the 17 rear naked choke was released. 18 BY MR. LAGOMARSINO: 19 Q. You were asked the question in your prior 20 deposition, "Okay. And if there was a rear naked 21 choke, he should have stopped it?" 22 And your answer was, "Had he recognized 23 there was a rear naked choke or an LV, had he 24 recognized the rear naked choke, yes." 25 Do you agree with that?</p>
Page 131	Page 133
<p>1 and Crumrine should have intervened, correct? 2 MR. ANDERSON: Objection. Form. 3 THE WITNESS: In this scenario, we asked 4 about the hand placement. And because they were 5 taking action, taking Farmer into custody, they 6 cannot recall the hand placement. And so to the best 7 of their knowledge they knew Officer Lopera was using 8 an LVNR. 9 BY MR. LAGOMARSINO: 10 Q. That's fair. I'll give you a hypothetical 11 situation. 12 If they determined that a rear naked choke 13 was being used as opposed to LVNR, they would have 14 had a duty to intervene? 15 MR. ANDERSON: Objection. Form. 16 THE WITNESS: Hypothetically, once the 17 decedent was taken into custody, hypothetically, yes, 18 they would have a duty to intervene if that LVNR or 19 chokehold was being -- continued being used. 20 BY MR. LAGOMARSINO: 21 Q. So you define custody as two handcuffs on 22 both wrists? 23 A. Yes. 24 Q. So in your view, that if a rear naked choke 25 was being applied before the handcuffs were being</p>	<p>1 A. Once the scene was safe and the decedent 2 was taken into custody, yes. 3 Q. You didn't say that in your prior 4 deposition; is that correct? 5 A. I don't have it in front of me. 6 (Exhibit 7 was marked for 7 identification.) 8 BY MR. LAGOMARSINO: 9 Q. So going to page 58, line 18. The question 10 is, "Okay. And if there was a rear naked choke, he 11 should have stopped it. Objection. Form. 12 Objection. Form. Go ahead." 13 And then the witness says: "Had he 14 recognized there was a rear naked choke or an LV, had 15 he recognized the rear naked choke, yes." 16 Did you testify that way in your prior 17 deposition? 18 A. I believe it was, yeah, by policy. He 19 should have stopped it. 20 Q. And then going to page 59, you were asked, 21 "And if Officer Tran had known there was a rear naked 22 choke being applied, he should have stopped it, 23 intervened. Objection. Form." 24 And then what was your answer? 25 A. "Yes."</p>



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

35 (Pages 134 to 137)

Page 134	Page 136
<p>1 Q. And then the next question says, "And if 2 Officer Flores knew a rear naked choke was being 3 applied, he should have intervened. Same objection." 4 And then what was your answer? 5 A. "Yes." 6 Q. Now, we've talked a little bit about just 7 accepting an officer's statement as true when they 8 say it's based on their perception. 9 Do you recall that testimony? 10 A. Yes, I do. 11 Q. And I'm assuming they don't provide mind 12 reading training at Metro yet, correct? 13 MR. ANDERSON: Objection. Form. 14 THE WITNESS: No. 15 BY MR. LAGOMARSINO: 16 Q. So if an officer is telling you that 17 something was done based on their perception but 18 they're lying, and you don't know they're lying, then 19 you just have to accept it as the truth, correct? 20 A. Yes. 21 Q. And that's pursuant to policy, correct? 22 MR. ANDERSON: Objection. Form. 23 THE WITNESS: Yeah. 24 BY MR. LAGOMARSINO: 25 Q. Going to page 69. I apologize, going to</p>	<p>1 conclusion? 2 A. No. 3 Q. Did Officer Bland ever tell you whether he 4 had the opinion that an LVNR was used or a rear naked 5 choke? 6 A. Based on the hand placement, I believe it 7 was a -- he believed it to be a rear naked choke of 8 that non-encircling arm. 9 Q. He told you that? 10 A. It was, yeah, part of the discussion that 11 we had with everyone. 12 Q. Do witnesses to an incident change their 13 story from time to time? Let me rephrase. 14 Did witnesses in this case change their 15 story about what happened? 16 A. No. 17 Q. Did you ever undertake an assessment to 18 determine whether people were giving inconsistent 19 statements? 20 A. No. I don't know how I would do that. 21 Q. Or did you compare prior statements to 22 current statements? 23 A. Some of the witness officers had gave FIT 24 statements which we reviewed. 25 Q. Did you make any comparisons between what</p>
Page 135	Page 137
<p>1 page 68. It says -- line 6, it says, "Okay. Turn 2 over to the next page, please. It says Officer 3 Lopera told Officer Flores in the ride back what 4 happened. During the conversation he stated I 5 started wailing on the dude, then I rear mounted and 6 choked him out." 7 And do you take that as it could be either 8 LVNR or a rear naked choke, that particular quote? 9 A. Yes. 10 Q. When Lopera said apparently at 9:34 the 11 body camera and it's referred to here in the 12 transcript, that "I started punching him rear 13 naked -- rear naked at his ass. He went out." 14 Do you take that to mean a rear naked 15 choke? 16 A. Yes. 17 Q. Who helped you formulate your conclusions 18 in your report? 19 A. We -- the CIRT team, and then our meeting 20 with SMEs. 21 Q. Did you initially ever have a conclusion 22 that Crumrine, Tran or Flores did not properly 23 intervene? 24 A. No. 25 Q. Did anybody tell you to make that</p>	<p>1 they were telling you in the FIT and what they were 2 telling you in the CIRT? 3 A. We looked over their FIT report. And if we 4 had questions, we would clarify in our interview. 5 Q. And after that interview did you compare 6 the statements of both? Or let me ask a better 7 question. 8 Did you comment on any inconsistent 9 statements in the report that you submitted to CIRT? 10 A. One we had with Officer Lif, I believe in 11 her FIT statement she had said something in reference 12 of foot pursuit, and then we clarified that in CIRT. 13 And that's when she stated she did not perceive a 14 foot pursuit had occurred. 15 Q. If a subject is in a LVNR not handcuffed 16 but they're not moving or resisting, are you supposed 17 to release the LVNR? 18 A. You can release it, but it's a controlling 19 technique to leave the arm encircling. That will 20 assist with your arriving officer to help take that 21 person into custody or put two cuffs around their 22 wrists. 23 Q. Did Tran ever see Farmer move or resist? 24 A. In his statement he provided to us, I don't 25 believe he did.</p>



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

38 (Pages 146 to 149)

Page 146	Page 148
<p>1 Q. And did you make any recommendation in the 2 CIRT report as to what internal rules or practices 3 would be required? 4 A. No. I'm sorry, I don't know if I fully 5 understand that question. 6 Q. I'll skip it. 7 A. Okay. 8 Q. Lopera, did he give a FIT statement? 9 A. He did not. 10 Q. Does CIRT share their witness statements 11 with FIT? 12 A. No, unless they're requested through the 13 District Attorney's office. 14 Q. So if the DA asks for the CIRT statements, 15 they are provided to the DA? 16 A. Yeah. There's a process they go through, 17 but in the long run, yes. 18 Q. Were you ever guaranteed by anybody that 19 the CIRT report would not be disseminated? 20 A. No. 21 Q. I'm assuming you've been, based on your 22 testimony today, you've been trained on various 23 constitutional amendments, correct? 24 A. Yeah. 25 Q. Have you ever been trained on the 14th</p>	<p>1 released by the judge, would you continue to be 2 honest and independent in your discussion in future 3 cases if you're the subject of a CIRT investigation? 4 A. Yes. 5 Q. If you later, through some unfortunate 6 event become the subject of a CIRT team 7 investigation, would you be irreparably damaged by 8 releasing the report in this case? 9 MR. ANDERSON: Objection. Form. 10 THE WITNESS: No. 11 MR. LAGOMARSINO: All right. I think I'm 12 going to have about another half hour. Why don't we 13 take a quick break and it will help me go through 14 some of my questions and eliminate them. So let's 15 take ten minutes or five minutes. 16 THE VIDEOGRAPHER: The time is 17 approximately 3:14 p.m. We're going off the record. 18 (A recess was taken from 3:14 to 19 3:20 p.m.) 20 THE VIDEOGRAPHER: The time is 21 approximately 3:20 p.m. We are back on the record. 22 BY MR. LAGOMARSINO: 23 Q. All right. Did Lopera ever express, to 24 your knowledge, that he was scared of Tashi Farmer? 25 MR. McNUTT: Objection. Form. If that was</p>
Page 147	Page 149
<p>1 Amendment, due process right to familial relations? 2 A. No. 3 Q. Have you ever been trained on supervisor 4 liability in the constitutional rights context? 5 A. Not in constitutional, no. 6 Q. Have you ever heard of a Monell claim? 7 A. No. 8 Q. Is it your understanding that Lopera was 9 allowed to retire? 10 MR. McNUTT: Objection. Form. 11 THE WITNESS: It was my understanding it 12 was a medical retirement. 13 BY MR. LAGOMARSINO: 14 Q. And do you have an understanding of what 15 his medical condition was that he was allowed to 16 retire from? 17 A. I do not. 18 Q. Is it fair to say that the deliberations 19 arising out of this incident took place after you 20 issued the CIRT report? 21 A. Yes. 22 Q. Do you know whether this CIRT report has 23 been released in this case? 24 A. I don't believe it has, but I don't know. 25 Q. Okay. If it ultimately gets approved to be</p>	<p>1 a statement made during the CIRT process, I'll 2 instruct the witness not to answer. 3 THE WITNESS: It was. 4 MR. LAGOMARSINO: Okay. Did -- so we'll 5 follow the same procedure. I'm assuming if the judge 6 orders the transcript to be produced, that will 7 probably answer itself. 8 MR. ANDERSON: You don't need to ask her 9 yet. You'll have the answer. 10 MR. McNUTT: You don't need to ask her. 11 BY MR. LAGOMARSINO: 12 Q. Did Flores ever express that he was scared 13 of Tashi Farmer? 14 A. I don't think so, but I don't recall. It 15 was in his statement. 16 Q. Did Tran ever express that he was scared of 17 Tashi Farmer? 18 A. I don't believe so. 19 Q. Did Crumrine ever express that he was 20 scared of Tashi Farmer? 21 A. Again, with Officer Flores, I don't recall. 22 Q. Other than what's contained in the reports, 23 do you have any independent recollection of them 24 expressing that they were scared of Tashi Farmer? 25 A. No.</p>

Detective Kasey Kirkegard ~ February 6, 2019  
 \* \* \* Videotaped Deposition \* \* \*

40 (Pages 154 to 157)

Page 154	Page 156
<p>1 Q. And how so?</p> <p>2 A. I think there was a question about him</p> <p>3 being chased across the boulevard.</p> <p>4 Q. Besides that?</p> <p>5 A. No.</p> <p>6 Q. Do the victims have any say in your</p> <p>7 investigation?</p> <p>8 A. "Victims" meaning?</p> <p>9 Q. Tashi's relatives.</p> <p>10 A. No.</p> <p>11 Q. Do they have any say in the FIT</p> <p>12 investigation?</p> <p>13 A. No.</p> <p>14 Q. Are either the FIT or the CIRT</p> <p>15 investigations, to your knowledge, conducted for the</p> <p>16 purpose of delivering justice to the family members?</p> <p>17 MR. ANDERSON: Objection. Form.</p> <p>18 THE WITNESS: I'm sorry, can you say that</p> <p>19 one more time?</p> <p>20 BY MR. LAGOMARSINO:</p> <p>21 Q. Sure. Was your investigation conducted for</p> <p>22 the purpose of delivering justice to the family</p> <p>23 members?</p> <p>24 A. My -- no. My investigation was not.</p> <p>25</p>	<p>1 Q. Okay. Do you have any role in the hiring</p> <p>2 process?</p> <p>3 A. No.</p> <p>4 Q. Have you ever had any role?</p> <p>5 A. No.</p> <p>6 Q. Were there standard safety practices that</p> <p>7 were not applied in this case?</p> <p>8 A. I don't recall.</p> <p>9 Q. Was Lopera attempting to arrest Farmer?</p> <p>10 A. In his statement to us?</p> <p>11 MR. McNUTT: I'm sorry, say again. Are you</p> <p>12 asking about Lopera's statement?</p> <p>13 MR. LAGOMARSINO: I said, "Was Lopera</p> <p>14 attempting to arrest Farmer?"</p> <p>15 THE WITNESS: And that was something that</p> <p>16 was based off of his statement.</p> <p>17 MR. McNUTT: In her opinion or --</p> <p>18 BY MR. LAGOMARSINO:</p> <p>19 Q. Did you draw a conclusion that Lopera was</p> <p>20 trying to arrest Farmer?</p> <p>21 A. Yes.</p> <p>22 Q. And did you draw a conclusion as to what</p> <p>23 Lopera was trying to arrest Farmer for?</p> <p>24 A. Again, that was in his statement.</p> <p>25 Q. So was the only basis for any conclusion</p>
Page 155	Page 157
<p>1 Q. Your investigation was conducted for the</p> <p>2 purpose of Metro's interests, correct?</p> <p>3 A. Betterment of the department, yes.</p> <p>4 Q. Did CIRT ever do an investigation of the</p> <p>5 psychological profiles generated during the hiring</p> <p>6 process of the officers involved?</p> <p>7 A. Do they do a psych -- psych eval on the</p> <p>8 officers?</p> <p>9 Q. No. When you're hired, does a psych eval</p> <p>10 happen?</p> <p>11 A. I believe so. It still does, yeah.</p> <p>12 Q. And did you look at the psych evals of the</p> <p>13 officers?</p> <p>14 A. No.</p> <p>15 Q. And CIRT doesn't do a psych eval, correct?</p> <p>16 A. No. We do not.</p> <p>17 Q. Did you become aware during your</p> <p>18 investigation that Lopera was a competitive jiu jitsu</p> <p>19 fighter?</p> <p>20 MR. McNUTT: Objection. Form.</p> <p>21 THE WITNESS: Yes, in my investigation I</p> <p>22 did learn that.</p> <p>23 BY MR. LAGOMARSINO:</p> <p>24 Q. How did you learn that?</p> <p>25 A. It was when we interviewed him.</p>	<p>1 you might have based on his statement?</p> <p>2 A. On his perception.</p> <p>3 MR. McNUTT: And if the answer is yes, then</p> <p>4 I'll instruct you not to answer.</p> <p>5 But just to be clear, if you have other</p> <p>6 information, I have no objection.</p> <p>7 THE WITNESS: It was all based off of</p> <p>8 Officer Lopera's statement to CIRT.</p> <p>9 BY MR. LAGOMARSINO:</p> <p>10 Q. Did Officer Lopera make any statements</p> <p>11 other than CIRT as to why he was trying to apprehend</p> <p>12 Farmer?</p> <p>13 A. I believe in one body camera clip from</p> <p>14 Officer Lopera he is explaining to someone.</p> <p>15 Q. Would you agree that Farmer was essentially</p> <p>16 unarmed?</p> <p>17 A. Yes.</p> <p>18 Q. And that Farmer was basically powerless in</p> <p>19 this situation?</p> <p>20 MR. ANDERSON: Objection. Form.</p> <p>21 MR. McNUTT: Form.</p> <p>22 THE WITNESS: Do I believe that he was</p> <p>23 powerless in this situation?</p> <p>24 BY MR. LAGOMARSINO:</p> <p>25 Q. Yeah. Well, after he was placed in the</p>

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

41 (Pages 158 to 161)

Page 158

1 LVNR, was Farmer powerless?  
 2 MR. McNUTT: Objection. Form.  
 3 THE WITNESS: I think to the point he was  
 4 rendered unconscious, he was powerless.  
 5 BY MR. LAGOMARSINO:  
 6 Q. What power did he have?  
 7 A. Well, again not being there, based on the  
 8 officer's perception that he was -- Sergeant Crumrine  
 9 had tried to put his arm in a handcuff but he pulled  
 10 away. Again, some of this is captured on video  
 11 surveillance, some on body camera, but I was not  
 12 there.  
 13 Q. So basically the power to pull away?  
 14 A. Pull away. Fight. Again, I wasn't there.  
 15 Q. Was he fighting?  
 16 A. I don't know.  
 17 Q. Did you draw a conclusion as to whether  
 18 Farmer's constitutional rights were violated?  
 19 A. No.  
 20 Q. You made a conclusion that they weren't or  
 21 that you just didn't make any conclusion?  
 22 A. There's no conclusion on his constitutional  
 23 rights.  
 24 Q. Did you undertake any investigation to  
 25 determine whether LVNRs -- strike that.

Page 160

1 out across the department in reference the use of  
 2 LVNR.  
 3 Q. Anything else?  
 4 A. For defense tactics, which we go through  
 5 every quarter, it was a refresher on the LVNR. And  
 6 it was very specific on the use of the LVNR, the  
 7 application of the LVNR and reviving techniques.  
 8 Q. And what reviving techniques were  
 9 implemented as a result?  
 10 A. The palm strikes, and then placing the  
 11 subject in a seated position or on a side position,  
 12 recovery position so that they're able to breathe.  
 13 Q. Did that exist before this incident?  
 14 A. It did, yes.  
 15 Q. Were there any new --  
 16 A. Oh, no. Just the policy of the LVNR have  
 17 now been moved into our use of force model.  
 18 Q. Do you have any other suggestions on  
 19 training that's not currently in place?  
 20 A. No.  
 21 Q. Are you familiar with the concept of  
 22 education enforcement to prevent wrongdoing?  
 23 A. I'm not familiar with that, no.  
 24 Q. How many times was Tashi tasered?  
 25 A. Officer Lopera's countdown revealed seven

Page 159

1 Did you make any assessment as to whether  
 2 Metro's LVNR policy is constitutional?  
 3 A. Did I make the assessment, no.  
 4 Q. Have you heard if an assessment has been  
 5 made?  
 6 A. As a result of this case, I believe they  
 7 went back and reviewed some of the tactics and  
 8 policies on it, but I don't know.  
 9 Q. Were you aware of other cases before this  
 10 case where people were injured after having LVNR  
 11 applied to them?  
 12 A. Yes, but I don't remember specifically  
 13 which cases.  
 14 Q. Lopera didn't have a warrant to arrest  
 15 Farmer, correct?  
 16 A. No.  
 17 Q. A training could be implemented to prevent  
 18 this from happening again?  
 19 MR. ANDERSON: Objection. Form.  
 20 MR. McNUTT: Form.  
 21 THE WITNESS: Could a training be  
 22 implemented?  
 23 BY MR. LAGOMARSINO:  
 24 Q. Yeah.  
 25 A. Yeah. There was some training that was put

Page 161

1 times the trigger was pulled.  
 2 Q. And how many times was he struck in the  
 3 head?  
 4 A. Struck in the head?  
 5 Q. Yes.  
 6 A. Talking about hand strikes?  
 7 Q. Yes.  
 8 A. I believe it was approximately 12 to 15  
 9 times.  
 10 Q. And after that, Lopera put him in an LVNR,  
 11 correct?  
 12 A. Yes.  
 13 Q. Or some kind of neck restraint, correct?  
 14 A. Correct.  
 15 Q. How long was he in that hold?  
 16 A. I believe it was a minute and 14 seconds.  
 17 Q. After he was released from the LVNR, did  
 18 you witness officers walking around and not showing  
 19 any concern about Tashi?  
 20 MR. ANDERSON: Objection. Form.  
 21 THE WITNESS: No. There was officers who  
 22 were on the scene trying to set up ingress and egress  
 23 for medical. I had officers start with CPR  
 24 immediately. They went to the scene of security and  
 25 they asked for a defibrillator knowing that there's

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

42 (Pages 162 to 165)

Page 162	Page 164
<p>1 one on property. And they started to get the scene 2 shut down. 3 BY MR. LAGOMARSINO: 4 Q. How do you define "immediately"? 5 A. As soon as officers got up on scene, Tran, 6 Officer Tran, once he was taken into custody, 7 immediately sets up Farmer, does reviving palm 8 strikes, checks his pulse several times. They take 9 him out of handcuffs to help with breathing. And 10 that's when I believe CPR was started, when Officer 11 Kravetz, Amburgey and Vontagen... 12 Q. When you say immediately, are you saying 13 like within five seconds? 14 A. For Officer Tran, when he set up Farmer, it 15 was almost immediate. They saw that he was at that 16 time -- I believe his statement says that his eyes 17 were closed and they sat him up in a seated position 18 and delivered palm strikes. 19 Q. Did you witness police officers on the 20 scene in the body cam footage making jokes? 21 A. No jokes. 22 Q. Did you witness officers in the body cam 23 footage laughing? 24 A. No, not laughing. 25 Q. Would laughing and joking around the scene</p>	<p>1 the fact. Off record conversations with the -- with 2 the witness officers. 3 Q. Do you recall specifically what they said? 4 A. They asked about how he -- how Tashi had 5 died. They asked about the process of CIRT, and we 6 told them that we're going -- obviously we're going 7 to break down everything critically and look at this. 8 They wanted to know -- I think one actually 9 asked if he had kids. I don't remember which one. I 10 think it was Tran, I believe, that actually asked 11 that. But it was not recorded in their statements. 12 This is all offline conversations. 13 Q. Okay. Has, to your knowledge, any single 14 person from Metro offered as much as an apology to 15 anybody from Tashi's family? 16 A. I don't know. I believe FIT had a very 17 close -- was in contact with, I believe, his wife or 18 his mother, I want to say, after the incident. And I 19 know they did some interviews with the family, 20 reference their part of the investigation. And 21 that's normally where they get their kind of idea of 22 who Tashi Farmer is. 23 Q. But you don't know if they offered an 24 apology? 25 A. I don't know.</p>
Page 163	Page 165
<p>1 of an incident like this be proper police routine? 2 MR. ANDERSON: Objection. Form. 3 THE WITNESS: No. 4 BY MR. LAGOMARSINO: 5 Q. Did Crumrine, Tran or Flores in their 6 statements express remorse? 7 MR. ANDERSON: Objection. Form. 8 THE WITNESS: I don't recall. 9 BY MR. LAGOMARSINO: 10 Q. Did Lopera express remorse? 11 MR. McNUTT: Objection. Instruct the 12 witness not to answer if it came from the CIRT 13 process. 14 BY MR. LAGOMARSINO: 15 Q. Have you seen anything from any officer in 16 this case expressing even a twinge of guilt about 17 what happened? 18 MR. ANDERSON: Objection. Form. 19 THE WITNESS: Yes. 20 BY MR. LAGOMARSINO: 21 Q. Who? 22 A. All the officers involved. 23 Q. And are you saying that's in their 24 statements? 25 A. No. Just the questions that they had after</p>	<p>1 Q. To your knowledge, was Tran, Crumrine or 2 Flores disciplined? 3 A. I don't know. I'm not privy to the 4 discipline process. 5 I take that back. I know Crumrine was 6 because I'm going through a separate... 7 Q. How do you know Crumrine was? 8 A. Because I have been called as a witness in 9 a separate civil investigation. 10 Q. Have you ever heard of any Metro officer 11 in any situation ever being punished for lying in 12 court? 13 A. For lying in court? 14 Q. Yes. 15 A. Yes. 16 Q. Who was that? 17 A. I can't -- I can't remember the officer. I 18 believe it was Officer George Smith, I want to say. 19 Q. Okay. And what was that situation? 20 A. I don't know -- I don't know the ins and 21 outs or the details of the case, just that he had 22 lied on the stand and he was placed on some -- I 23 believe it's called a Brady list. 24 Q. Was he fired? 25 A. No.</p>



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

43 (Pages 166 to 169)

Page 166	Page 168
<p>1 Q. Have you ever heard of the word</p> <p>2 "test-a-lying"?</p> <p>3 A. No.</p> <p>4 Q. In your opinion, based on all the evidence</p> <p>5 you've reviewed, whose life did Tashi Farmer threaten</p> <p>6 in this entire situation?</p> <p>7 A. I don't know.</p> <p>8 Q. In your view, is there any injustice in the</p> <p>9 killing of Tashi Farmer?</p> <p>10 MR. ANDERSON: Objection. Form.</p> <p>11 THE WITNESS: Is there any justice?</p> <p>12 BY MR. LAGOMARSINO:</p> <p>13 Q. Injustice.</p> <p>14 A. We have the conclusion of excessive use of</p> <p>15 force.</p> <p>16 Q. Personally, was Lopera's conduct shocking</p> <p>17 to you personally?</p> <p>18 MR. ANDERSON: Objection. Form.</p> <p>19 MR. McNUTT: Join.</p> <p>20 MR. ANDERSON: Go ahead.</p> <p>21 THE WITNESS: In the form of shock of</p> <p>22 conscience?</p> <p>23 BY MR. LAGOMARSINO:</p> <p>24 Q. Yeah.</p> <p>25 A. No, but it was egregious.</p>	<p>1 that he died of asphyxia and two have said that he</p> <p>2 died of a heart attack.</p> <p>3 BY MR. LAGOMARSINO:</p> <p>4 Q. How is a heart attack caused, in your view?</p> <p>5 A. I have no idea. I'm sorry. One said</p> <p>6 asphyxia, three said heart attack, I believe.</p> <p>7 Q. And that was the coroner, in your view?</p> <p>8 A. The -- our Clark County coroner ruled Tashi</p> <p>9 had died of police asphyxia and then three separate</p> <p>10 coroners did investigations.</p> <p>11 Q. And who were those coroners?</p> <p>12 A. I don't know.</p> <p>13 Q. Are you talking about Force Science?</p> <p>14 A. No.</p> <p>15 Q. Okay. Where did you learn that?</p> <p>16 A. Through the FIT investigation and then kind</p> <p>17 of through this process as well.</p> <p>18 Q. Were they Nevada coroners?</p> <p>19 A. I don't know. Or the Clark County was the</p> <p>20 Nevada one, but the other three I don't know.</p> <p>21 Q. Did Crumrine, Tran or Flores ever provide</p> <p>22 to you any kind of moral justification for their</p> <p>23 conduct?</p> <p>24 MR. ANDERSON: Objection. Form.</p> <p>25 THE WITNESS: I believe Sergeant</p>
Page 167	Page 169
<p>1 Q. So you're not shocked?</p> <p>2 A. I mean, I deal with officer-involved</p> <p>3 shootings.</p> <p>4 Q. Is that because you're desensitized?</p> <p>5 A. Probably.</p> <p>6 Q. What happens with respect to discipline at</p> <p>7 Metro when the police restrain an unarmed man so</p> <p>8 another officer can choke him to death?</p> <p>9 MR. ANDERSON: Objection. Form.</p> <p>10 THE WITNESS: What's --</p> <p>11 BY MR. LAGOMARSINO:</p> <p>12 Q. Well, let's rephrase.</p> <p>13 Tashi was unarmed.</p> <p>14 A. Uh-huh.</p> <p>15 Q. And he was restrained by Lopera -- or</p> <p>16 strike that.</p> <p>17 Tashi was restrained by Crumrine, Tran and</p> <p>18 Flores, correct?</p> <p>19 MR. ANDERSON: Objection. Form.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. LAGOMARSINO:</p> <p>22 Q. And he was choked to death, right?</p> <p>23 MR. ANDERSON: Objection. Form.</p> <p>24 THE WITNESS: Actually, as far as I know,</p> <p>25 there's been four coroners ruling and two have said</p>	<p>1 Crumrine -- actually he might --</p> <p>2 In their after-action questions that we</p> <p>3 asked, Sergeant Crumrine, I believe, had made a</p> <p>4 statement that he essentially kept saying, "I messed</p> <p>5 up, I messed up."</p> <p>6 BY MR. LAGOMARSINO:</p> <p>7 Q. But did he justify his conduct morally?</p> <p>8 A. I don't recall.</p> <p>9 Q. Have you ever heard at Metro -- I'm just</p> <p>10 talking in general and talking about some culture</p> <p>11 here now -- any officers in your entire history with</p> <p>12 Metro say, well, if he wasn't guilty of doing this</p> <p>13 crime, he was guilty of doing something else?</p> <p>14 A. No.</p> <p>15 Q. Have you ever heard Metro officers refer to</p> <p>16 it being a war out there?</p> <p>17 A. Yes. And that was during the 1 October</p> <p>18 when we had to do our investigation into that.</p> <p>19 Q. Any other incidences?</p> <p>20 A. No. If you're talking in general working</p> <p>21 day to day, no.</p> <p>22 Q. In your experience with the Justice</p> <p>23 Department and cops, is it fair to say that Metro has</p> <p>24 a history of killing unarmed citizens?</p> <p>25 MR. ANDERSON: Objection. Form.</p>



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

44 (Pages 170 to 173)

Page 170

1 THE WITNESS: Actually, from the years 2011  
 2 through 2014, we had no mistake of fact shootings,  
 3 every subject was armed.  
 4 BY MR. LAGOMARSINO:  
 5 Q. I'm not talking about just shootings.  
 6 Killings?  
 7 A. I don't know.  
 8 Q. Has a Metro officer ever killed anybody in  
 9 jail since 2010?  
 10 A. Yes.  
 11 Q. How many do you know about?  
 12 A. I know about three or four of them.  
 13 Q. And were any of those choke cases?  
 14 A. I believe two of them were, yes.  
 15 Q. And who did those involve?  
 16 A. I don't know.  
 17 Q. And just for foundational purposes, Metro  
 18 officers are employed in jails, correct?  
 19 A. Yes.  
 20 Q. At the CCSD?  
 21 A. Metro employees encompasses corrections  
 22 officers and patrol officers.  
 23 Q. Are Metro officers trained that everybody  
 24 could be a potential threat?  
 25 A. Part of our fair and impartial policing

Page 172

1 BY MR. LAGOMARSINO:  
 2 Q. In your training, does Metro ever use  
 3 psychodrama or role-playing?  
 4 A. We do scenario-based training, if that's  
 5 the same.  
 6 Q. Is that role reversal training, or do you  
 7 know?  
 8 A. I don't think it's role reversal, no.  
 9 Q. Did you conclude in your evaluation that  
 10 Lopera was prone to aggression?  
 11 A. No.  
 12 MR. LAGOMARSINO: I don't have any other  
 13 questions.  
 14 MR. ANDERSON: Do you want me to go?  
 15 MR. McNUTT: Doesn't matter.  
 16 MR. ANDERSON: I'll be quick.  
 17  
 18 EXAMINATION  
 19 BY MR. ANDERSON:  
 20 Q. Hi, Detective Kirkegard. Does CIRT  
 21 investigate whether Las Vegas Metropolitan Police  
 22 Department policy and training was breached?  
 23 A. Yes.  
 24 Q. It does not make any opinions on whether --  
 25 any legal conclusions; is that fair?

Page 171

1 course that we put together, officers are taught to  
 2 approach every incident with an open mind.  
 3 Q. And in that open mind, could every person  
 4 be a potential threat?  
 5 A. Potential.  
 6 Q. And that would include potentially a little  
 7 old lady knitting a scarf on a bench, she could  
 8 potentially have a gun underneath that scarf?  
 9 A. She could very well.  
 10 Q. Is it important in general when policing to  
 11 have a people-friendly culture?  
 12 A. Yes.  
 13 Q. What aggression did Tashi Farmer display,  
 14 if any?  
 15 A. Resistance being taken into custody.  
 16 Q. What actions could Lopera have taken to  
 17 de-escalate the situation?  
 18 MR. ANDERSON: Objection. Form.  
 19 THE WITNESS: He could have got on the  
 20 radio, got more resources to his location. He could  
 21 have attempted verbally to de-escalate the situation.  
 22 Could have recognized the fact -- I mean, again,  
 23 based on what he had told us, he could have  
 24 recognized some Fourth Amendment.  
 25

Page 173

1 A. Yes.  
 2 Q. So any conclusions or findings you may have  
 3 are based solely upon the police department's policy  
 4 and training?  
 5 A. Correct.  
 6 Q. Now, you testified earlier and established  
 7 that an LVNR is the only neck restraint taught by the  
 8 police department, correct?  
 9 A. Yes.  
 10 Q. So if a neck restraint is used that is not  
 11 the LVNR, that would be outside of policy?  
 12 A. Yes.  
 13 Q. And an officer could be disciplined for  
 14 that action?  
 15 A. Yes.  
 16 Q. Is it possible that if someone used a neck  
 17 restraint that was not an LVNR, it could still be  
 18 reasonable under the circumstances?  
 19 A. Yes. By policy.  
 20 Q. So it could be reasonable under the law but  
 21 violating policy?  
 22 A. Right.  
 23 Q. Is that what you were kind of explaining  
 24 with Biesanszky, that he acted reasonably but that it  
 25 was outside the policy?

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

45 (Pages 174 to 177)

Page 174

1 A. Correct.  
 2 Q. Now, you were given a hypothetical in the  
 3 morning session of this deposition about the duty to  
 4 intervene.  
 5 When the officers arrived, did Sergeant  
 6 Crumrine give an order to Lopera to let him go?  
 7 A. Yes.  
 8 Q. In your training and experience, was  
 9 Officer Crumrine -- would it be reasonable for  
 10 Officer Crumrine to believe that Lopera had followed  
 11 that command, his order?  
 12 A. I don't know.  
 13 Q. Okay. Is there any way that Crumrine could  
 14 tell, based upon your training and experience,  
 15 whether Lopera released pressure while keeping the  
 16 encircling arm around the neck?  
 17 A. I don't know.  
 18 Q. Have you ever been witness to an LVNR?  
 19 A. Yes.  
 20 Q. Can you tell how much pressure is being  
 21 applied?  
 22 A. No.  
 23 Q. If an officer ceases using an LVNR, is it  
 24 policy that they maintain the encircling arm until  
 25 handcuffing is effectuated?

Page 176

1 A. Yes.  
 2 Q. Are verbal commands a form of intervention?  
 3 A. Yes.  
 4 Q. And are officers entitled to believe that  
 5 other officers will follow their commands?  
 6 A. I'm sorry, are they entitled?  
 7 Q. Is it reasonable for an officer to assume  
 8 that their command is being followed?  
 9 A. Yes.  
 10 Q. Now, you -- there was a question posed to  
 11 you that the three -- this is just barely -- that the  
 12 three officers were restraining Farmer while Lopera  
 13 choked him out.  
 14 Do you remember that question?  
 15 A. Yes.  
 16 Q. For purposes of police work, when is  
 17 someone restrained?  
 18 A. When they're placed in handcuffs.  
 19 Q. Okay. So would it be more accurate to say  
 20 that Tran, Crumrine and Flores were attempting to  
 21 restrain Farmer while the neck restraint was being  
 22 applied?  
 23 A. Yes.  
 24 Q. And again, you would not physically  
 25 intervene in a neck restraint until handcuffing was

Page 175

1 A. It's a control technique that's used.  
 2 Q. And it's your understanding or based upon  
 3 your investigation of this incident, that while  
 4 Officer Lopera had Mr. Farmer in some form of neck  
 5 restraint or his arms around the neck, that the other  
 6 three officers, Crumrine, Tran and Flores were  
 7 attempting to handcuff Farmer; is that correct?  
 8 A. Yes.  
 9 Q. And you've been asked questions about  
 10 whether the officers could have or should have  
 11 physically pried Lopera's arms off Farmer's neck,  
 12 correct?  
 13 A. Yes.  
 14 Q. Can you think of any scenario where an  
 15 officer would stop handcuffing an individual before  
 16 they're handcuffed to physically pull the arms off  
 17 someone's neck?  
 18 A. No. It's not what's trained.  
 19 Q. They're trained that they would not  
 20 physically intervene until the handcuffing is  
 21 complete?  
 22 A. Correct.  
 23 Q. But despite that understanding, the  
 24 officers were giving Lopera verbal commands about his  
 25 use of the neck restraint?

Page 177

1 complete; is that fair?  
 2 A. Correct.  
 3 Q. Now, Crumrine, Tran and Flores were  
 4 investigated for failing to intervene?  
 5 A. Yes, they were.  
 6 Q. Okay. And they were -- it was found that  
 7 they did, in fact, intervene?  
 8 A. Yes.  
 9 Q. And is that verbally and physically?  
 10 A. Yes.  
 11 Q. Attempting to handcuff a suspect, is that a  
 12 form of intervention of forces being used?  
 13 A. Yes.  
 14 Q. Okay. Because the first thing you would  
 15 want to do is get the suspect handcuffed upon  
 16 arrival?  
 17 A. Yes.  
 18 Q. And that's basic police training?  
 19 A. Yes.  
 20 Q. Now, you were read into the -- into the  
 21 record the CIRT statement introductions of Crumrine,  
 22 Flores, Tran -- and Crumrine. Crumrine, Flores,  
 23 Tran, their CIRT statement introductions were read,  
 24 correct?  
 25 A. Yes.

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

48 (Pages 186 to 189)

Page 186	Page 188
<p>1 strikes, the amount of hand strikes that you were</p> <p>2 discussing with Mr. Lagomarsino, how did you come to</p> <p>3 the conclusion about how many hand strikes?</p> <p>4 A. It was review off both the surveillance</p> <p>5 video of Venetian and then Officer Lopera's body</p> <p>6 camera, and that was intermittent body camera.</p> <p>7 Q. And that was you personally and you counted</p> <p>8 them?</p> <p>9 A. Correct. It was me, and then we had --</p> <p>10 that video was shown to our discussion of SMEs when</p> <p>11 we had roundtabled the incident.</p> <p>12 Q. So assuming for a minute that the -- the</p> <p>13 count of the hand strikes were accurate, do you know</p> <p>14 whether -- with how much force any of them landed on</p> <p>15 Mr. Farmer?</p> <p>16 A. No.</p> <p>17 Q. Do you know if they landed at all on</p> <p>18 Mr. Farmer?</p> <p>19 A. Looking through the video, it appeared he</p> <p>20 made contact. But whether, like you're saying, the</p> <p>21 pressure where the actual target was, I don't know.</p> <p>22 Q. Did Mr. Farmer cease resisting when the</p> <p>23 hand strikes were thrown?</p> <p>24 A. In some portions of Officer Lopera's</p> <p>25 body-worn camera, it appears as though Farmer's hands</p>	<p>1 remember we talked about the strikes.</p> <p>2 Q. You were asked a question, what could have</p> <p>3 been done to deescalate this situation. Do you</p> <p>4 recall that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. What could Tashi Farmer have done to</p> <p>7 deescalate the situation?</p> <p>8 A. Well, looking at it, cameras and</p> <p>9 everything, he could have listened to Officer Lopera.</p> <p>10 Q. So he could have followed the verbal</p> <p>11 commands of a Metropolitan police officer?</p> <p>12 A. Yes.</p> <p>13 Q. If he would have followed the verbal</p> <p>14 commands of Officer Lopera, what would have happened?</p> <p>15 A. I don't know.</p> <p>16 Q. If Officer Lopera said stop, don't move,</p> <p>17 what would have happened?</p> <p>18 A. I don't know.</p> <p>19 Q. Would there have been the chance for</p> <p>20 further inquiry with Tashi Farmer?</p> <p>21 A. I don't know. Probably not.</p> <p>22 Q. With respect to the communications and some</p> <p>23 of the policy violations that were discussed and you</p> <p>24 were talking about covering contact, in this scenario</p> <p>25 with respect to Officer Lopera and Officer Lif, who</p>
Page 187	Page 189
<p>1 are up in a defensive deflecting.</p> <p>2 Q. Have you reviewed the deposition testimony</p> <p>3 or did you interview as part of your investigation</p> <p>4 the security guard from the Venetian's testimony or</p> <p>5 did you interview them directly?</p> <p>6 A. Yes. Both I reviewed their statements that</p> <p>7 they provided to FIT, and then we actually went back</p> <p>8 out a few weeks later and conducted our own</p> <p>9 investigation -- or interview.</p> <p>10 Q. Do you recall a gentleman named -- Security</p> <p>11 Guard Infantino?</p> <p>12 A. Yes.</p> <p>13 Q. And do you recall his testimony being that</p> <p>14 Tashi Farmer was demonstrating extraordinary strength</p> <p>15 in resisting Officer Lopera?</p> <p>16 A. Yes.</p> <p>17 Q. And in fact, that he tried to grab Officer</p> <p>18 Lopera -- excuse me. The fact that Infantino tried</p> <p>19 to grab Tashi Farmer's arm, and he felt personally</p> <p>20 the significant strength Tashi Farmer exhibited?</p> <p>21 A. Yes.</p> <p>22 Q. Do you also remember the part of his</p> <p>23 testimony where he talked about the fact that the</p> <p>24 punches were having no effect on Tashi Farmer?</p> <p>25 A. I don't recall that specifically, but I</p>	<p>1 was covering whose contact in the interaction with</p> <p>2 Tashi Farmer?</p> <p>3 A. In Officer Lif's statement, it would have</p> <p>4 been Officer Lopera who was the contact, and she</p> <p>5 would have been the cover officer. And then Officer</p> <p>6 Lopera had also told us something similar in his</p> <p>7 statement.</p> <p>8 Q. And I'm not asking you about Officer</p> <p>9 Lopera.</p> <p>10 So with respect to making the verbal</p> <p>11 communications over the radio -- because you were</p> <p>12 testifying regarding Metro's policies regarding foot</p> <p>13 pursuits and making communications over the radio, do</p> <p>14 you remember that?</p> <p>15 A. Yes.</p> <p>16 Q. Whose obligation would that have been?</p> <p>17 Would that have been Officer Lopera or Officer Lif's</p> <p>18 as the contact?</p> <p>19 A. First on -- the first initial when Officer</p> <p>20 Lopera approached the decedent, Officer Lif could</p> <p>21 have gotten on the radio and stated their location,</p> <p>22 the stop, for a person stop.</p> <p>23 However, when Officer Lopera engaged in a</p> <p>24 foot pursuit, it's incumbent upon that officer to</p> <p>25 provide that radio traffic and his actions to include</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

49 (Pages 190 to 193)

Page 190	Page 192
<p>1 that he is in a foot pursuit.</p> <p>2 Q. And again, I'm never going to ask you about</p> <p>3 Officer Lopera's statements in this.</p> <p>4 A. Okay.</p> <p>5 Q. So don't take it that way.</p> <p>6 But do you know whether or not Officer</p> <p>7 Lopera did -- attempted to make those communications</p> <p>8 or not?</p> <p>9 A. He did not.</p> <p>10 Q. Because part of the pursuit was through the</p> <p>11 back of the house of the casino and then through a</p> <p>12 concrete stairwell and things of that nature, right?</p> <p>13 A. Yes.</p> <p>14 Q. I think we've all probably been in a</p> <p>15 parking garage or one of those areas and we don't</p> <p>16 have much cell phone service. So is there a way that</p> <p>17 you can tell by radio transmissions or can you tell</p> <p>18 that his mic was keyed or not keyed?</p> <p>19 A. Right. So we did. We did a radio analysis</p> <p>20 on both him and Officer Lif. And we even utilized</p> <p>21 our radios that are assigned to us and went through</p> <p>22 and checked to see if you were able to communicate.</p> <p>23 We did a test run with our dispatcher and</p> <p>24 then, like I said, we did an analysis on Lif and</p> <p>25 Lopera's radio.</p>	<p>1 A. Yes, it is.</p> <p>2 Q. Would you defer to the officer on the scene</p> <p>3 in that regard?</p> <p>4 A. For their perception, yes.</p> <p>5 Q. And what they believe is reasonable,</p> <p>6 and isn't it true -- I'm sorry, go ahead and answer</p> <p>7 that.</p> <p>8 A. Yes.</p> <p>9 Q. And isn't it true that each officer, some</p> <p>10 have more skills in one technique than other</p> <p>11 techniques and it's a little bit dependent upon what</p> <p>12 they're best suited to deploy?</p> <p>13 A. Yes.</p> <p>14 Q. What is the policy regarding when you can</p> <p>15 turn off a body-worn camera after an event?</p> <p>16 A. I believe it's at the debrief once the</p> <p>17 scene is considered static. And when, again, when</p> <p>18 they're starting to debrief within, and that's to</p> <p>19 protect any policies and procedures, things of that</p> <p>20 nature.</p> <p>21 Q. Can you identify any point in this event</p> <p>22 when you know this situation was deemed static and it</p> <p>23 would have been okay for the officers to turn off</p> <p>24 their body-worn camera?</p> <p>25 A. Probably at the point where they have the</p>
Page 191	Page 193
<p>1 Q. Okay. And you did have signal, is what</p> <p>2 you're saying?</p> <p>3 A. Yes.</p> <p>4 Q. In the stairwell and everything else?</p> <p>5 A. Yes.</p> <p>6 Q. You made a statement that Officer Lopera</p> <p>7 could have used empty hand tactics to take Tashi</p> <p>8 Farmer into custody; do you remember that?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Isn't that what he did?</p> <p>11 A. Well, hand strikes are not considered empty</p> <p>12 hand tactics.</p> <p>13 Q. What are considered empty hand tactics?</p> <p>14 A. Those are going to be certain takedowns</p> <p>15 that we use; reverse wrist lock, arm bar takedowns,</p> <p>16 things that have -- that will less likely result in</p> <p>17 injury.</p> <p>18 Q. Do you think given the circumstances once</p> <p>19 the ECD was ineffective, and once Tashi Farmer was</p> <p>20 resisting in personal contact with Officer Lopera,</p> <p>21 that those techniques would have been effective?</p> <p>22 A. Given the body position of the two,</p> <p>23 probably not, but...</p> <p>24 Q. Is that a judgment call the officer has to</p> <p>25 make on the scene?</p>	<p>1 scene secure, medical has arrived and now it's just</p> <p>2 waiting on what's next.</p> <p>3 Q. Do they -- do officers have to receive an</p> <p>4 approval or an order from their superior, their</p> <p>5 sergeant or commanding officer to turn off their</p> <p>6 body-worn camera?</p> <p>7 A. No.</p> <p>8 Q. So they can do it on their own?</p> <p>9 A. Correct.</p> <p>10 Q. It's true that Officer Lopera properly</p> <p>11 turned on his body-worn cam, right?</p> <p>12 A. Yes.</p> <p>13 Q. And he never turned off his body-worn cam</p> <p>14 until after it was static, correct?</p> <p>15 A. Correct.</p> <p>16 Q. So he was in complete compliance with the</p> <p>17 body-worn cam policy of Metro, right?</p> <p>18 A. I wouldn't say complete. There's a policy</p> <p>19 for officers that were involved in a critical</p> <p>20 incident that as soon as they're removed from the</p> <p>21 scene, they are to turn off their body camera. But</p> <p>22 in this particular incident, Sergeant Crumrine failed</p> <p>23 at removing Officer Lopera from the crime scene and</p> <p>24 having him deactivate his body cam.</p> <p>25 Q. So in effect, if there was any policy</p>



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

50 (Pages 194 to 197)

Page 194	Page 196
<p>1 violation, he was over-inclusive in the evidence 2 preserved on his body-worn camera? 3 A. Right. 4 Q. There was some discussion about what you 5 termed -- or what the term was in -- strike that. 6 Are you familiar with Operation Safe Strip? 7 A. Yes. 8 Q. Or is it Project Safe Strip? 9 A. It's -- I believe -- I just know it as 10 Safe Strip. 11 Q. I've heard of it as -- different officers 12 have said different things. 13 A. Right. I know Safe Strip. 14 Q. What is it? 15 A. It's -- well, actually, I don't know what 16 it is anymore. It used to be we have a proactive 17 squad that would go around to the hot spots around in 18 Convention Center Area Command, which is essentially 19 the Strip, Las Vegas Boulevard, and they would 20 address certain issues. 21 Q. And are you aware that Officer Lopera was 22 assigned to Safe Strip the night of this incident? 23 A. Yes. 24 Q. And is the -- would someone approaching an 25 officer on Operation Safe Strip that was under the</p>	<p>1 force structure? 2 A. Level I was, yes. 3 Q. Correct. And there's never been a 4 determination by you or anyone else that Officer 5 Lopera used any specific level of LVNR, correct? 6 A. Yeah, he did. Yes. 7 Q. I'm correct? 8 A. You're correct, yes. Without going into a 9 statement, yes. 10 Q. Well, Sergeant Bland testified that no one 11 could tell by reviewing the video whether or not 12 there was LVNR 1, 2 or 3, whether there was any 13 pressure applied at any point or for how long. Are 14 you -- are you aware of that? 15 A. Yes. 16 Q. Do you agree with Sergeant Bland's 17 testimony in that regard? 18 A. I do. 19 Q. You testified that there was a lawyer that 20 stopped the walk-through and you referred to that 21 lawyer by name. Do you recall that individual? 22 A. John Eldridge. 23 Q. John Eldridge? 24 A. I believe it was. 25 Q. And who was he the lawyer for?</p>
Page 195	Page 197
<p>1 influence of a controlled substance, would that be 2 someone that the officer should investigate? 3 MR. LAGOMARSINO: Objection. Form. 4 Foundation. Incomplete hypothetical. 5 THE WITNESS: It depends. And this is -- 6 Safe Strip officers probably deal with that on a 7 99 percent basis. But yes. 8 BY MR. McNUTT: 9 Q. What about when someone that they believe 10 is under the influence of a controlled substance runs 11 into a restricted area of a casino; is that something 12 that would require investigation? 13 A. Yes. 14 Q. Is that reasonable suspicion to stop 15 someone? 16 A. Yes. 17 Q. Is that probable cause to pursue someone? 18 A. Reasonable suspicion. 19 Q. Do you think Officer Lopera had reasonable 20 suspicion and was justified in following Tashi 21 Farmer? 22 A. Yes. 23 Q. Under the policies in effect at the time of 24 this event, isn't it true that Officer Lopera's use 25 of the LVNR was authorized under the former use of</p>	<p>1 A. So he's one of the -- he's either PPA or 2 PMSA reps, lawyers that come out along with David 3 Roger and Jay Roberts who would come out and -- out 4 on scene whenever a critical incident happens to 5 represent involved officers or witness officers. 6 Q. Were you present when he was there? 7 A. No, I was not. 8 Q. Were you present at any point at this scene 9 or you -- CIRT comes in, like, sometime later? 10 A. Right. I was at the office. My partner 11 actually went down to the scene, but I did not go 12 down. 13 Q. And what was your understanding about the 14 lawyers stopping the walk-through? 15 A. I believe they got through the first four 16 questions up until the -- I believe it was the foot 17 pursuit and the perceived carjacking. And then at 18 that point, when it went into the actual use of force 19 used by Lopera, all questions stopped. 20 Q. And who stopped it? 21 A. The -- I believe Eldridge. 22 Q. So you're not aware of the fact that 23 Mr. Eldridge's statement is he never stopped the 24 walk-through? 25 A. I -- I believe he physically said, "We're</p>



## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

55 (Pages 214 to 217)

Page 214	Page 216
<p>1 A. Not complying, no. 2 (Playing video.) 3 BY MR. McNUTT: 4 Q. So at this point we're at 2:08, but about 5 two seconds ago, you saw Officer Lopera hand contact 6 Tashi Farmer's hand, correct? 7 A. Yes. 8 Q. Do you want me to back it up? 9 A. No. You're good. 10 Q. So Officer Lopera is in physical contact 11 with Tashi Farmer at this point, correct? 12 A. Yes. 13 (Playing video.) 14 BY MR. McNUTT: 15 Q. Okay. So I want to ask you questions about 16 the amount of movement you're seeing here on the body 17 cam and whether or not you believe Tashi Farmer is 18 resisting being taken into custody. 19 (Playing video.) 20 BY MR. McNUTT: 21 Q. So did you hear the "help me out"? 22 A. Yes. 23 Q. Is that Officer Lopera? 24 A. Yes. 25 Q. And do you know who he's asking help from?</p>	<p>1 A. Yes. 2 (Playing video.) 3 BY MR. McNUTT: 4 Q. So we've got multiple commands being given 5 here, but not all of them by Officer Lopera, correct? 6 A. Correct. 7 Q. You've got "turn around," "give me your 8 arm," things of that nature, correct? 9 A. Yes. 10 Q. And so can you delineate or have you ever 11 delineated whether all of those were from Officer 12 Lopera? 13 A. We did ask him and we were able to -- 14 Q. Don't tell me what Officer Lopera said, but 15 I'm asking your perception as listening to the 16 different voices. 17 A. Yes. 18 Q. It's clear to you that there are different 19 voices, correct? 20 A. Yes. 21 Q. I mean, some of us listening to Officer 22 Lopera for a couple -- for a few seconds can tell 23 different pitch of a voice, right? 24 A. Yes. 25 (Playing video.)</p>
Page 215	Page 217
<p>1 A. I believe he's asking for help from the 2 security, the Venetian security officers. 3 Q. Is it your opinion that officer -- Metro 4 officers ask for help from civilians when they don't 5 actually need it? 6 MR. LAGOMARSINO: Objection. Form. 7 THE WITNESS: It depends. I personally 8 wouldn't. 9 BY MR. McNUTT: 10 Q. Ever? 11 A. It would really just depend. It would have 12 to be a very dire situation to involve a citizen into 13 a use of force for me, but that's me. 14 Q. Sure. So if it's a dire situation, you 15 would ask for help? 16 A. Very dire, yes. 17 Q. And whether it's dire to one person versus 18 another person is a matter of opinion, correct? 19 A. Yes, it is. 20 Q. Okay. There's at least three people around 21 him at this point, right? 22 A. Yes. 23 Q. The man at the top, we see a white shirt, 24 and do you recognize that as being a Venetian 25 security guard?</p>	<p>1 BY MR. McNUTT: 2 Q. Did you hear that "okay, sir"? 3 A. Yes. 4 Q. Do you think that was from Officer Lopera? 5 A. No. 6 Q. Do you think that was from Tashi Farmer? 7 A. Yes. 8 (Playing video.) 9 BY MR. McNUTT: 10 Q. Did you hear that? 11 A. "On your stomach"? 12 Q. No. 13 MR. LAGOMARSINO: Form. 14 BY MR. McNUTT: 15 Q. The punch that hit Officer Lopera's 16 body-worn camera? 17 MR. LAGOMARSINO: Form. 18 (Playing video.) 19 BY MR. McNUTT: 20 Q. Right there. 21 A. I don't know what that is. That could be 22 the wind or the force of Officer Lopera coming down. 23 I don't know. 24 Q. The wind? 25 A. Yeah. Coming from -- coming in, yes.</p>

Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

58 (Pages 226 to 229)

Page 226	Page 228
<p>1 FURTHER EXAMINATION</p> <p>2 BY MR. LAGOMARSINO:</p> <p>3 Q. So you heard --</p> <p>4 MR. McNUTT: I'll make note that you</p> <p>5 watched the entire video.</p> <p>6 BY MR. LAGOMARSINO:</p> <p>7 Q. You heard various questions about whether</p> <p>8 Tashi was compliant or not, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And in answer to a lot of those questions,</p> <p>11 you stated that he wasn't compliant, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Are you aware of police reports that</p> <p>14 indicate that after review of the video and the</p> <p>15 evidence, that in many instances, Tashi was not given</p> <p>16 enough time to comply?</p> <p>17 A. Am I aware?</p> <p>18 Q. Yeah.</p> <p>19 A. I'm sorry, can you rephrase that? Sorry.</p> <p>20 Q. Are you aware of other police reports in</p> <p>21 this case, either from FIT or other officers, that</p> <p>22 indicate after review of the timeline, that Tashi was</p> <p>23 not given enough time to comply with Officer Lopera's</p> <p>24 commands?</p> <p>25 A. I'm not aware.</p>	<p>1 ECDs, correct?</p> <p>2 MR. McNUTT: Objection. Form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. LAGOMARSINO:</p> <p>5 Q. And you're trained that a natural reaction</p> <p>6 from being tased with probes is to try to remove</p> <p>7 those probes, correct?</p> <p>8 A. I don't know if it's a natural reaction.</p> <p>9 Q. Are you trained that it's a common reaction</p> <p>10 that people try to remove those probes?</p> <p>11 A. Yes.</p> <p>12 Q. If you were tased with probes, would you</p> <p>13 attempt to remove those from your body?</p> <p>14 MR. ANDERSON: Objection. Form.</p> <p>15 THE WITNESS: I would probably just stay</p> <p>16 still.</p> <p>17 BY MR. LAGOMARSINO:</p> <p>18 Q. But you've never been tased, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Now, in the beginning of the video, you</p> <p>21 were asked about whether there were certain</p> <p>22 indicators as to whether Tashi was going into a</p> <p>23 restricted area, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And those were slip and fall cones,</p>
Page 227	Page 229
<p>1 Q. Are you aware of police reports that</p> <p>2 indicate that Tashi was given confusing commands by</p> <p>3 Officer Lopera?</p> <p>4 MR. McNUTT: Objection. Form.</p> <p>5 THE WITNESS: And are you asking other than</p> <p>6 my report or other reports?</p> <p>7 BY MR. LAGOMARSINO:</p> <p>8 Q. Yes, other than your report.</p> <p>9 A. I don't know.</p> <p>10 Q. After three rounds of tases were given,</p> <p>11 what were options that -- what were all the options</p> <p>12 that were available to Officer Lopera?</p> <p>13 A. What were all the options available?</p> <p>14 Q. Yes, since he was supposed to stop tasing</p> <p>15 after three rounds.</p> <p>16 A. Well, he's supposed to deem the ECD</p> <p>17 ineffective and re-holster and transition to another</p> <p>18 tool that he could use based on his perception.</p> <p>19 Q. You're trained on the ECD, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you're trained that the ECD is painful</p> <p>22 to people who receive those probes, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you heard, in fact, Tashi screaming or</p> <p>25 wailing in the video after being struck with those</p>	<p>1 correct?</p> <p>2 A. Yes. The yellow cones, yeah, yellow cones.</p> <p>3 Q. And that was -- anything on the yellow</p> <p>4 cones or the yellow tape indicate that it was a,</p> <p>5 quote, unquote, restricted area?</p> <p>6 A. No.</p> <p>7 Q. And then Mr. McNutt made reference to some</p> <p>8 chains that Tashi ran through.</p> <p>9 Did you see any chains in the video?</p> <p>10 A. Yes. They connected the yellow cones in</p> <p>11 front of the door.</p> <p>12 Q. And they were actual metal chains?</p> <p>13 A. No, they were just plastic chains.</p> <p>14 Q. Have you reviewed -- Mr. McNutt made</p> <p>15 reference to alleged opinions and testimony from</p> <p>16 different experts in a different case. And then you</p> <p>17 answered some of those questions.</p> <p>18 Have you ever used the testimony or</p> <p>19 opinions from the experts in the other case?</p> <p>20 A. No.</p> <p>21 Q. So you're relying on what those experts</p> <p>22 said based on what Mr. McNutt said they said,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. You heard some questions about whether</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

59 (Pages 230 to 233)

Page 230	Page 232
<p>1 Tashi should have deescalated.</p> <p>2 Do you remember that question?</p> <p>3 A. Yes.</p> <p>4 Q. Was Lopera, to your knowledge, in the</p> <p>5 department long enough to be trained about</p> <p>6 deescalation?</p> <p>7 A. Yes.</p> <p>8 Q. In your experience with regular citizens,</p> <p>9 are they trained to deescalate?</p> <p>10 A. Are citizens trained to deescalate?</p> <p>11 Q. Right.</p> <p>12 A. No. Not that I know of.</p> <p>13 Q. In reviewing the beginning of the video,</p> <p>14 Tashi starts running from Lopera, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And that's because Lopera reaches out to</p> <p>17 grab Tashi, correct?</p> <p>18 A. I don't know why Tashi ran from Officer</p> <p>19 Lopera.</p> <p>20 Q. Did you see Lopera reach out to grab Tashi</p> <p>21 before Tashi started running?</p> <p>22 A. Yes.</p> <p>23 Q. Are officers permitted -- strike that.</p> <p>24 At the point where Officer Lopera went to</p> <p>25 grab Tashi, was there anything that you saw on the</p>	<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. Does the sole fact of a citizen running</p> <p>3 away from an officer mean that the citizen is on</p> <p>4 drugs?</p> <p>5 A. No.</p> <p>6 Q. You made a comment, I think, in response to</p> <p>7 a misleading question, in my view, as to whether</p> <p>8 Tashi could have been arrested for carjacking.</p> <p>9 Do you believe that based on your review of</p> <p>10 the video of the overhead surveillance and the body</p> <p>11 cam footage, that Tashi should have been arrested for</p> <p>12 carjacking?</p> <p>13 A. In my belief, what I put in the report was</p> <p>14 the two views and what they depicted, along with</p> <p>15 Officer Lopera's perception. And that's what I put</p> <p>16 in my report.</p> <p>17 Q. And did you believe that he could have been</p> <p>18 arrested for carjacking based on all that?</p> <p>19 A. I would leave that up to the FIT team to</p> <p>20 make that determination.</p> <p>21 Q. Sitting here today, do you believe --</p> <p>22 strike that.</p> <p>23 Sitting here today, would you have arrested</p> <p>24 him for carjacking?</p> <p>25 A. Would I?</p>
Page 231	Page 233
<p>1 video, at least without the benefit of sound, that</p> <p>2 indicated that Lopera had the right to grab Tashi?</p> <p>3 MR. McNUTT: Objection. Form.</p> <p>4 THE WITNESS: I don't know. And that's</p> <p>5 what -- some of the questions we had for</p> <p>6 Officer Lopera.</p> <p>7 BY MR. LAGOMARSINO:</p> <p>8 Q. Are you aware -- I asked this before but</p> <p>9 it's been a long day.</p> <p>10 So were you part of the process of pulling</p> <p>11 Tashi's cell records?</p> <p>12 A. No, I was not.</p> <p>13 Q. Okay. Did anyone pull Officer Lopera's</p> <p>14 cell records, to your knowledge?</p> <p>15 A. I believe so. But I don't know. I believe</p> <p>16 it's the FIT team.</p> <p>17 Q. Do you know if they downloaded Officer</p> <p>18 Lopera's data from his cell phone?</p> <p>19 A. I have no idea.</p> <p>20 Q. Lopera turned off his camera while being</p> <p>21 questioned about the incident, correct?</p> <p>22 MR. McNUTT: Objection. Form.</p> <p>23 THE WITNESS: Later on in the incident,</p> <p>24 yes.</p> <p>25</p>	<p>1 Q. Right.</p> <p>2 A. No.</p> <p>3 Q. You made a comment regarding 99 percent of</p> <p>4 citizens and I didn't get the whole thing. You used</p> <p>5 the word -- the number 99 percent. What was that in</p> <p>6 reference to?</p> <p>7 A. I believe the -- it was just an estimate,</p> <p>8 but on the weekends, the officers will come in</p> <p>9 contact with someone who is under the influence of</p> <p>10 alcohol, narcotics here in Vegas.</p> <p>11 Q. And maybe it was like a little bit of</p> <p>12 hyperbole, but a lot of people --</p> <p>13 A. A lot of people.</p> <p>14 Q. -- are under the influence, right?</p> <p>15 A. Yes.</p> <p>16 Q. And was Lopera a drug recognition expert?</p> <p>17 A. I would have to look at his training</p> <p>18 records, but I don't believe so.</p> <p>19 Q. And does the simple fact that somebody is</p> <p>20 sweating on a May night mean that they're under the</p> <p>21 influence and can be arrested for being under the</p> <p>22 influence?</p> <p>23 A. No.</p> <p>24 Q. And if somebody has some glassy eyes and is</p> <p>25 approaching an officer about possibly being chased by</p>

## Detective Kasey Kirkegard ~ February 6, 2019

## \* \* \* Videotaped Deposition \* \* \*

60 (Pages 234 to 237)

Page 234	Page 236
<p>1 somebody mean that the officer can detain that 2 person? 3 A. No. 4 Q. If officers arrested everybody that 5 appeared to be under the influence on the Strip, 6 there wouldn't be a lot of tourists coming to Vegas 7 anymore, correct? 8 A. I don't know. Probably not. 9 Q. Now, you were asked some questions about 10 whether and when Officer Lopera loosened his grip on 11 Tashi. 12 And I want to kind of get a definition of 13 "loosened." Are you defining loosen as releasing the 14 grip? 15 A. Releasing the pressure. 16 Q. Okay. And that's releasing his arm 17 completely? 18 A. No. It's releasing the pressure that's 19 between his bicep and forearm, the pressure that goes 20 along the carotid artery. 21 Q. And when did that take place in the 22 timeline that Lopera released or loosened his grip on 23 Tashi in that manner? 24 A. I don't know when. 25 Q. For the crime of resisting a police</p>	<p>1 Q. Was Lopera being soft and gentle with 2 Tashi? 3 A. No. 4 Q. Is it a natural reaction based on your 5 training of somebody who is getting punched in the 6 face and the head to lift their hands if they're 7 getting hit? 8 A. Yes. 9 Q. Do you expect citizens to comply with 10 officers if they're getting hit in the face for no 11 reason? 12 A. No. 13 MR. LAGOMARSINO: I have to go pull the 14 record that -- I don't know if the witness can 15 remember. I want to try to refresh her recollection 16 so it will just take me two minutes about the 17 confusing and inconsistent command line of 18 questioning. Just take a quick break. 19 THE VIDEOGRAPHER: The time is 20 approximately 5:08 p.m. We are going off the record. 21 (A recess was taken from 5:08 p.m. 22 to 5:20 p.m.) 23 THE VIDEOGRAPHER: The time is 24 approximately 5:20 p.m. We are back on the record. 25</p>
Page 235	Page 237
<p>1 officer, you have to have what's known as a predicate 2 crime, correct? 3 A. You know, that's a good question. I don't 4 know, actually. 5 Q. In other words, if -- can a police officer 6 with no basis walk up to a citizen, arrest the 7 citizen, and then charges -- if the citizen resists, 8 charge that citizen with resisting? 9 A. No. 10 Q. You heard questions from Mr. McNutt about 11 Tashi not being hit that hard kind of in the 12 beginning of his questioning. 13 Do you remember those -- that line of 14 questioning? 15 A. Yes. 16 Q. Was Tashi being caressed? 17 MR. McNUTT: Objection. Form. 18 THE WITNESS: I don't know. 19 BY MR. LAGOMARSINO: 20 Q. By Lopera in the video? 21 A. Was he being caressed? 22 Q. If it wasn't hard, was it soft? 23 A. I don't know. 24 Q. Was Lopera softly tapping him? 25 A. I wouldn't call it tapping.</p>	<p>1 BY MR. LAGOMARSINO: 2 Q. So we're placing in front of you a document 3 that just for the record is online at the Las Vegas 4 Review-Journal's website through Scribd, S-c-r-i-b-d, 5 after the incident. 6 And it's redacted. It's my understanding 7 that Mr. Anderson will produce this document. 8 Have you ever seen this document before? 9 A. I don't believe I have. 10 Q. Let's go through it briefly. 11 A. Okay. 12 Q. Have you seen the timeline on page 3 13 before? 14 A. Yes. 15 Q. Where have you seen this timeline before? 16 A. So this timeline may have come from the FIT 17 report that's produced. 18 Q. So at 1:39, Officer Lopera yelled, "Don't 19 move." And Farmer replied, "Okay." 20 Does that -- somebody saying "okay" to a 21 command indicate to you that they're complying? 22 A. It doesn't necessarily mean they're 23 complying. I think they're acknowledging the verbal 24 command. 25 Q. At 1:45 it says, "Officer Lopera yelled get</p>

Detective Kasey Kirkegard ~ February 6, 2019  
 \* \* \* Videotaped Deposition \* \* \*

61 (Pages 238 to 241)

Page 238	Page 240
<p>1 on your stomach. Farmer replied I will, I will,  2 please. And then Farmer fell backward to the  3 ground."  4 Does somebody saying, "I will, I will,  5 please" indicate to you that somebody is complying  6 with an order?  7 A. Again, I don't know if he's complying, but  8 it sounds like he's acknowledging the verbal command.  9 Q. Okay. It says here at 1:57, Officer  10 Lopera, so this is one minute and 57 seconds into the  11 body cam. Officer Lopera yelled, "Get on your  12 stomach." And then at two minutes Farmer rolled onto  13 his stomach, then to his back.  14 Does that indicate to you that he was  15 trying to comply?  16 A. That he was trying to comply?  17 Q. Yes.  18 A. He rolled on his stomach and rolled back  19 on -- then rolled to his back.  20 Q. He had Taser probes on him, right?  21 A. Yes.  22 Q. So does that indicate to you he's  23 complying, not complying or indeterminate?  24 MR. McNUTT: Object to this line of  25 questioning inasmuch as you're asking the witness to</p>	<p>1 "Get on your stomach." At 2:04, seven seconds later,  2 Farmer rolls to his stomach, right?  3 A. Yes. Per this timeline, yes.  4 Q. And does that indicate compliance to you?  5 A. Yes.  6 Q. And three seconds later, Farmer says,  7 "Okay, okay, okay, sir."  8 Does that indicate compliance to you?  9 A. Again, I don't know what his actions are at  10 this time.  11 Q. Okay. Then at 2:20 it says security  12 arrived. They give Farmer verbal commands and a  13 guard grabbed onto Farmer's arms. Farmer said, "I  14 will."  15 Do you believe it could be confusing to  16 somebody who is getting multiple commands from  17 multiple people?  18 A. Yes.  19 Q. Now, security is giving commands to say  20 stop, turn around, correct? At 2:22?  21 A. Per this timeline, that's what it says,  22 yeah.  23 Q. And that command was not given to Farmer  24 from Lopera, correct?  25 A. According to this timeline, it says</p>
Page 239	Page 241
<p>1 interpret someone's interpretation of the actual  2 video.  3 BY MR. LAGOMARSINO:  4 Q. All right. So let's do some foundational  5 questions.  6 You're the lead investigator on the case,  7 right?  8 A. Yes.  9 Q. And you're reviewing all the  10 interpretations from all the witnesses, correct?  11 A. Yes.  12 Q. That's part of your job, right?  13 A. Yes.  14 Q. So as part of your job, you make  15 recommendations based on what people have interpreted  16 from the videos, correct?  17 A. If you're referencing FIT being a witness,  18 I don't consider them a witness. They did an  19 independent investigation.  20 Q. Was this timeline used in the CIRT report?  21 A. No. We have our own timeline.  22 Q. Was the FIT report provided to the CIRT  23 board?  24 A. The FIT report was -- yes, it was.  25 Q. So basically at 1:57, again Lopera says,</p>	<p>1 security gave that.  2 Q. But prior to this, according to the  3 timeline, Lopera didn't say, "Stop, turn around,"  4 correct?  5 A. No.  6 Q. That's incorrect?  7 A. No. Yeah. Officer Lopera did not say,  8 "Stop, turn around."  9 Q. So that's a different command, correct?  10 A. Yes.  11 Q. Okay. So then at 2:33, Lopera holsters his  12 ECD and says, "Hands behind your back."  13 Farmer replied, "I'm trying to." Right?  14 Does that indicate compliance?  15 A. Possible indication.  16 Q. You reviewed the videos probably multiple  17 times, correct?  18 A. Yes.  19 Q. How many times would you say you reviewed  20 Lopera's body cam video by way of an estimate?  21 A. Probably 40 times, 50 times.  22 Q. And you never came to the conclusion that  23 Farmer struck Lopera, correct?  24 A. Correct.  25 Q. And there's nothing -- there's no</p>



Detective Kasey Kirkegard ~ February 6, 2019

\* \* \* Videotaped Deposition \* \* \*

Page 247

1 CERTIFICATE OF REPORTER

2 I, the undersigned, a Certified Shorthand  
3 Reporter of the State of Nevada, do hereby certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth;  
6 that any witnesses in the foregoing proceedings,  
7 prior to testifying, were duly sworn; that a record  
8 of the proceedings was made by me using machine  
9 shorthand which was thereafter transcribed under my  
10 direction; that the foregoing transcript is a true  
11 record of the testimony given to the best of my  
12 ability.

13 Further, that before completion of the  
14 proceedings, review of the transcript [ X ] was  
15 [ ] was not requested pursuant to NRCP 30(e).

16 I further certify I am neither financially  
17 interested in the action, nor a relative or employee  
18 of any attorney or party to this action.

19 IN WITNESS WHEREOF, I have this date  
20 subscribed my name.

21

22 Dated: February 12, 2019

23

24

25



GALE SALERNO, RMR, CCR #542